

Calendar No. 608

108TH CONGRESS
2^D SESSION

S. 1735

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2003

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GRAHAM of South Carolina, Mr. CHAMBLISS, Mr. CORNYN, Mr. SCHUMER, and Mr. BIDEN)

JULY 6, 2004

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand

and improve gang prevention programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Gang Prevention and Effective Deterrence Act of 2003”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL STREET GANG ABATEMENT ACT

Sec. 100. Short title.

Subtitle A—Criminal Law Reforms and Enhanced Penalties To Deter and Punish Illegal Street Gang Activity

Sec. 101. Solicitation or recruitment of persons in criminal street gang activity.

Sec. 102. Criminal street gangs.

Sec. 103. Violent crimes in furtherance or in aid of criminal street gangs.

Sec. 104. Interstate and foreign travel or transportation in aid of criminal street gangs.

Sec. 105. Amendments relating to violent crime in areas of exclusive Federal jurisdiction.

Sec. 106. Increased penalties for use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.

Sec. 107. Increased penalties for violent crimes in aid of racketeering activity.

Sec. 108. Murder and other violent crimes committed during and in relation to a drug trafficking crime.

Sec. 109. Sentencing guidelines for gang crimes, including an increase in offense level for participation in crime as a gang member.

Subtitle B—Increased Federal Resources To Deter and Prevent At-Risk Youth From Joining Illegal Street Gangs

Sec. 110. Designation of and assistance for “high intensity” interstate gang activity areas.

Sec. 111. Enhancement of project safe neighborhoods initiative to improve enforcement of criminal laws against violent gangs.

Sec. 112. Additional resources needed by the Federal Bureau of Investigation to investigate and prosecute violent criminal street gangs.

Sec. 113. Grants to State and local prosecutors to combat violent crime and to protect witnesses and victims of crimes.

TITLE H—VIOLENT CRIME REFORMS NEEDED TO DETER AND
PREVENT ILLEGAL GANG CRIME

- Sec. 201. Multiple interstate murder.
- Sec. 202. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
- Sec. 203. Venue in capital cases.
- Sec. 204. Statute of limitations for violent crime.
- Sec. 205. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
- Sec. 206. Clarification of definition of crime of violence.
- Sec. 207. Clarification to hearsay exception for forfeiture by wrongdoing.
- Sec. 208. Clarification of venue for retaliation against a witness.
- Sec. 209. Amendment of sentencing guidelines relating to certain gang and violent crimes.
- Sec. 210. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.
- Sec. 211. Conforming amendment.

TITLE III—JUVENILE CRIME REFORM FOR VIOLENT OFFENDERS

- Sec. 301. Treatment of Federal juvenile offenders.
- Sec. 302. Notification after arrest.
- Sec. 303. Release and detention prior to disposition.
- Sec. 304. Speedy trial.
- Sec. 305. Use of juvenile records.
- Sec. 306. Federal sentencing guidelines.

1 **TITLE I—CRIMINAL STREET**
2 **GANG ABATEMENT ACT**

3 **SEC. 100. SHORT TITLE.**

4 This title may be cited as the “Criminal Street Gang
5 Abatement Act”.

6 **Subtitle A—Criminal Law Reforms**
7 **and Enhanced Penalties To**
8 **Deter and Punish Illegal Street**
9 **Gang Activity**

10 **SEC. 101. SOLICITATION OR RECRUITMENT OF PERSONS IN**
11 **CRIMINAL STREET GANG ACTIVITY.**

12 Chapter 26 of title 18, United States Code, is amend-
13 ed by adding at the end the following:

1 **“§ 522. Recruitment of persons to participate in a**
 2 **criminal street gang**

3 ~~“(a) PROHIBITED ACTS.—It shall be unlawful for any~~
 4 ~~person to use any facility in, or travel in, interstate or~~
 5 ~~foreign commerce, or cause another to do so, in order to~~
 6 ~~recruit, employ, solicit, induce, command, or cause another~~
 7 ~~person to be or remain as a member of a criminal street~~
 8 ~~gang, or conspire to do so, with the intent that the person~~
 9 ~~being recruited, solicited, induced, commanded, or caused~~
 10 ~~to be or remain a member of such gang participate in an~~
 11 ~~offense described in section 521(b).~~

12 ~~“(b) PENALTIES.—Any person who violates sub-~~
 13 ~~section (a) shall—~~

14 ~~“(1) be imprisoned not more than 10 years,~~
 15 ~~finned under this title, or both; and~~

16 ~~“(2) if the person recruited, solicited, induced,~~
 17 ~~commanded, or caused to participate in a criminal~~
 18 ~~street gang is a minor—~~

19 ~~“(A) be imprisoned for not less than 3~~
 20 ~~years and not more than 10 years, fined under~~
 21 ~~this title, or both; and~~

22 ~~“(B) at the discretion of the sentencing~~
 23 ~~judge, be liable for any costs incurred by the~~
 24 ~~Federal Government, or by any State or local~~
 25 ~~government, for housing, maintaining, and~~

1 treating the person until the person attains the
2 age of 18 years.”.

3 **SEC. 102. CRIMINAL STREET GANGS.**

4 (a) CRIMINAL STREET GANG PROSECUTIONS.—Sec-
5 tion 521 of title 18, United States Code, is amended to
6 read as follows:

7 **“§ 521. Criminal street gang prosecutions**

8 “(a) DEFINITIONS.—As used in this chapter:

9 “(1) CRIMINAL STREET GANG.—The term
10 ‘criminal street gang’ means a formal or informal
11 group, club, organization, or association of 3 or
12 more individuals, who act in concert, or agree to act
13 in concert, with a purpose that any of these persons
14 alone, or in any combination, commit or will commit,
15 2 or more predicate gang crimes, 1 of which occurs
16 after the date of enactment of The Gang Prevention
17 and Effective Deterrence Act of 2003 and the last
18 of which occurs not later than 10 years (excluding
19 any period of imprisonment) after the commission of
20 a prior predicate gang crime, provided that the ac-
21 tivities of the criminal street gang affect interstate
22 or foreign commerce.

23 “(2) PREDICATE GANG CRIME.—The term
24 ‘predicate gang crime’ means—

1 “(A) any act or threat, or attempted act or
2 threat, which is chargeable under Federal or
3 State law and punishable by imprisonment for
4 more than 1 year, involving murder, attempted
5 murder, manslaughter, gambling, kidnapping,
6 robbery, extortion, arson, obstruction of justice,
7 tampering with or retaliating against a witness,
8 victim, or informant, burglary, sexual assault,
9 earjacking, or manufacturing, importing, distrib-
10 uting, possessing with intent to distribute, or
11 otherwise dealing in a controlled substance or
12 listed chemicals (as those terms are defined in
13 section 102 of the Controlled Substances Act (21
14 U.S.C. 802));

15 “(B) any act punishable by imprisonment
16 for more than 1 year under section 844 (relat-
17 ing to explosive materials), section 922(g)(1)
18 (where the underlying conviction is a serious
19 violent felony (as defined in section
20 3559(e)(2)(F) of this title) or is a serious drug
21 offense (as defined in section 942(e)(2)(A) of
22 this title), or subsection (a)(2), (b), (c), (g), or
23 (h) of section 924 (relating to receipt, posses-
24 sion, and transfer of firearms), sections 1028
25 and 1029 (relating to fraud and related activity

1 in connection with identification documents or
2 access devices); section 1503 (relating to ob-
3 struction of justice); section 1510 (relating to
4 obstruction of criminal investigations); section
5 1512 (relating to tampering with a witness, vic-
6 tim, or informant); or section 1513 (relating to
7 retaliating against a witness, victim, or inform-
8 ant); section 1951 (relating to interference with
9 commerce, robbery or extortion); section 1952
10 (relating to racketeering); section 1956 (relat-
11 ing to the laundering of monetary instruments);
12 section 1957 (relating to engaging in monetary
13 transactions in property derived from specified
14 unlawful activity); section 1958 (relating to use
15 of interstate commerce facilities in the commis-
16 sion of murder-for-hire); sections 2312 through
17 2315 (relating to interstate transportation of
18 stolen motor vehicles or stolen property); or

19 “(C) any act involving the Immigration
20 and Nationality Act, section 274 (relating to
21 bringing in and harboring certain aliens); section
22 277 (relating to aiding or assisting certain
23 aliens to enter the United States); or section
24 278 (relating to importation of alien for im-
25 moral purpose).

1 ~~“(3) STATE.—~~The term ‘State’ means each of
 2 the several States of the United States, the District
 3 of Columbia, and any commonwealth, territory, or
 4 possession of the United States.

5 ~~“(b) ILLEGAL PARTICIPATION IN CRIMINAL STREET~~
 6 ~~GANGS.—~~It shall be unlawful—

7 ~~“(1) to participate in a criminal street gang by~~
 8 ~~committing, or conspiring or attempting to commit,~~
 9 ~~2 or more predicate gang crimes—~~

10 ~~“(A) in furtherance or in aid of the activi-~~
 11 ~~ties of a criminal street gang; or~~

12 ~~“(B) for the purpose of gaining entrance~~
 13 ~~to or maintaining or increasing position in such~~
 14 ~~a gang; or~~

15 ~~“(2) to employ, use, command, counsel, per-~~
 16 ~~suade, induce, entice, or coerce any individual to~~
 17 ~~commit, cause to commit, or facilitate the commis-~~
 18 ~~sion of, a predicate gang crime—~~

19 ~~“(A) in furtherance or in aid of the activi-~~
 20 ~~ties of a criminal street gang; or~~

21 ~~“(B) for the purpose of gaining entrance~~
 22 ~~to or maintaining or increasing position in such~~
 23 ~~a gang.~~

24 ~~“(c) PENALTIES.—~~

1 ~~“(1) IMPRISONMENT OF UP TO 30 YEARS OR~~
 2 ~~LIFE.—Any person who violates paragraph (1) of~~
 3 ~~subsection (b)—~~

4 ~~“(A) shall be imprisoned not more than 30~~
 5 ~~years;~~

6 ~~“(B) if the violation is based on a predi-~~
 7 ~~cate gang crime for which the maximum pen-~~
 8 ~~alty includes life imprisonment, shall be impris-~~
 9 ~~oned for any term of years or for life; and~~

10 ~~“(C) if the person commits such a violation~~
 11 ~~after 1 or more prior convictions for such a~~
 12 ~~predicate gang crime, that is not part of the in-~~
 13 ~~stant violation, shall be imprisoned for any term~~
 14 ~~of years not less than 15 years or for life.~~

15 ~~“(2) IMPRISONMENT OF UP TO 20 YEARS.—~~

16 ~~“(A) IN GENERAL.—A person who violates~~
 17 ~~subsection (b)(2) shall be imprisoned for not~~
 18 ~~more than 20 years, fined under this title, or~~
 19 ~~both.~~

20 ~~“(B) SUBJECT IS A MINOR.—If the person~~
 21 ~~who was the subject of the violation under sub-~~
 22 ~~section (b)(2) was less than 18 years of age at~~
 23 ~~the time of the violation, the person committing~~
 24 ~~the violation shall be imprisoned for not less~~
 25 ~~than 10 years.~~

1 “(C) CONSECUTIVE TERMS.—A term of
 2 imprisonment under this paragraph shall run
 3 consecutively to any other term of imprison-
 4 ment, including that imposed for any other vio-
 5 lation of this chapter.

6 “(3) ADDITIONAL PENALTIES.—In addition to
 7 any other penalty authorized by this section—

8 “(A) a person who violates paragraph (1)
 9 or (2) of subsection (b), 1 of whose predicate
 10 gang crimes involves murder or conspiracy to
 11 commit murder which results in the taking of
 12 a life; shall be punished by death or by impris-
 13 onment for any term of years or for life;

14 “(B) a person who violates paragraph (1)
 15 or (2) of subsection (b), 1 of whose predicate
 16 gang crimes involves attempted murder or con-
 17 spiracy to commit murder, shall be imprisoned
 18 for not more than 30 years; and

19 “(C) a person who violates paragraph (1)
 20 or (2) of subsection (b), and who at the time
 21 of the offense occupied a position of organizer,
 22 leader, supervisor, manager, or other position of
 23 management in the criminal street gang in-
 24 volved in such violation, shall be imprisoned for

1 any term of years not less than 15 years or for
2 life.

3 ~~“(d) FORFEITURE.—~~

4 ~~“(1) IN GENERAL.—A person who violates any~~
5 ~~provision of this section shall, in addition to any~~
6 ~~other penalty and irrespective of any provision of~~
7 ~~State law, forfeit to the United States—~~

8 ~~“(A) any property constituting, or derived~~
9 ~~from, any proceeds the person obtained, directly~~
10 ~~or indirectly, as a result of the violation; and~~

11 ~~“(B) any property used, or intended to be~~
12 ~~used, in any manner or part, to commit, or to~~
13 ~~facilitate the commission of, the violation.~~

14 ~~“(2) APPLICATION OF CONTROLLED SUB-~~
15 ~~STANCES ACT.—Subsections (b), (c), (e), (f), (g),~~
16 ~~(h), (i), (j), (k), (l), (m), (n), (o), and (p) of section~~
17 ~~413 of the Controlled Substances Act (21 U.S.C.~~
18 ~~853) shall apply to a forfeiture under this section.”.~~

19 ~~(b) CLERICAL AMENDMENT.—The table of sections~~
20 ~~at the beginning of chapter 26 of title 18, United States~~
21 ~~Code, is amended to read as follows:~~

~~“521. Criminal street gang prosecutions.”.~~

22 **SEC. 103. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF**
23 **CRIMINAL STREET GANGS.**

24 ~~(a) VIOLENT CRIMES AND CRIMINAL STREET GANG~~
25 ~~RECRUITMENT.—Chapter 26 of title 18, United States~~

1 Code, as amended by section 101, is amended by adding
 2 at the end the following:

3 **“§ 523. Violent crimes in furtherance or in aid of a**
 4 **criminal street gang**

5 “(a) Any person who, in furtherance or in aid of a
 6 criminal street gang, murders, kidnaps, sexually assaults,
 7 maims, assaults with a dangerous weapon, commits as-
 8 sault resulting in serious bodily injury upon, or threatens
 9 to commit a crime of violence against any individual, or
 10 attempts or conspires to do so, shall be punished, in addi-
 11 tion and consecutive to the punishment provided for any
 12 other violation of this chapter—

13 “(1) for murder, by death or imprisonment for
 14 any term of years or for life, a fine under this title,
 15 or both;

16 “(2) for kidnapping or sexual assault, by im-
 17 prisonment for any term of years or for life, a fine
 18 under this title, or both;

19 “(3) for maiming, by imprisonment for any
 20 term of years or for life, a fine under this title, or
 21 both;

22 “(4) for assault with a dangerous weapon or as-
 23 sault resulting in serious bodily injury, by imprison-
 24 ment for not more than 30 years, a fine under this
 25 title, or both;

1 “(5) for threatening to commit a crime of vio-
 2 lence specified in paragraphs (1) through (4), by im-
 3 prisonment for not more than 10 years, a fine under
 4 this title, or both;

5 “(6) for attempting or conspiring to commit
 6 murder, kidnapping, maiming, or sexual assault, by
 7 imprisonment for not more than 30 years, a fine
 8 under this title, or both; and

9 “(7) for attempting or conspiring to commit a
 10 crime involving assault with a dangerous weapon or
 11 assault resulting in serious bodily injury, by impris-
 12 onment for not more than 20 years, a fine under
 13 this title, or both.

14 “(b) DEFINITIONS.—In this section:

15 “(1) CRIMINAL STREET GANG.—The term
 16 ‘criminal street gang’ has the same meaning as in
 17 section 521 of this title.

18 “(2) MINOR.—The term ‘minor’ means a per-
 19 son who is less than 18 years of age.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of chapter 26 of title 18, United States
 22 Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.

“523. Violent crimes in furtherance of a criminal street gang.”.

1 **SEC. 104. INTERSTATE AND FOREIGN TRAVEL OR TRANS-**
 2 **PORTATION IN AID OF CRIMINAL STREET**
 3 **GANGS.**

4 Section 1952 of title 18, United States Code, is
 5 amended—

6 (1) in subsection (a)—

7 (A) by striking “and thereafter performs
 8 or attempts to perform” and inserting “and
 9 thereafter performs, or attempts or conspires to
 10 perform”;

11 (B) by striking “5 years” and inserting
 12 “10 years”; and

13 (C) by inserting “punished by death or”
 14 after “if death results shall be”;

15 (2) by redesignating subsections (b) and (c) as
 16 subsections (c) and (d), respectively;

17 (3) by inserting after subsection (a) the fol-
 18 lowing:

19 “(b) Whoever travels in interstate or foreign com-
 20 merce or uses the mail or any facility in interstate or for-
 21 eign commerce, with the intent to bribe, force, intimidate,
 22 or threaten any person, to delay or influence the testimony
 23 of, or prevent from testifying, a witness in a State criminal
 24 proceeding, or by any such means to cause any person to
 25 destroy, alter, or conceal a record, document, or other ob-
 26 ject, with intent to impair the object’s integrity or avail-

1 ability for use in such a proceeding, and thereafter per-
 2 forms, or attempts or conspires to perform, an act de-
 3 scribed in this subsection, shall—

4 “(1) be fined under this title, imprisoned for
 5 any term of years, or both; and

6 “(2) if death results, be punished by death or
 7 imprisonment for any term of years or for life.”; and

8 (4) in subsection (c)(2), as redesignated under
 9 subparagraph (B), by inserting “intimidation of, or
 10 retaliation against, a witness, victim, juror, or in-
 11 formant,” after “extortion, bribery,”.

12 **SEC. 105. AMENDMENTS RELATING TO VIOLENT CRIME IN**
 13 **AREAS OF EXCLUSIVE FEDERAL JURISDIC-**
 14 **TION.**

15 (a) ASSAULT WITHIN MARITIME AND TERRITORIAL
 16 JURISDICTION OF UNITED STATES.—Section 113(a)(3) of
 17 title 18, United States Code, is amended by striking “with
 18 intent to do bodily harm, and without just cause or ex-
 19 cuse”.

20 (b) CONSPIRACY.—Section 371 of title 18, United
 21 States Code, is amended—

22 (1) by striking “If two” and inserting “(a) If
 23 2”;

24 (2) by striking “each shall be fined under this
 25 title or imprisoned not more than five years, or

1 both.” and inserting the following: “each person
2 shall—

3 “(1) be fined or imprisoned, or both, as set
4 forth in the specific substantive offense which was
5 the object of the conspiracy; or

6 “(2) if paragraph (1) does not apply, be fined
7 under this title or imprisoned for not more than 10
8 years, or both.”; and

9 (3) by striking “If, however,” and inserting
10 “(b) If”.

11 (c) MANS�AUGHTER.—Section 1112(b) of title 18,
12 United States Code, is amended by—

13 (1) striking “ten years” and inserting “20
14 years”; and

15 (2) striking “six years” and inserting “10
16 years”.

17 (d) OFFENSES COMMITTED WITHIN INDIAN COUN-
18 TRY.—Section 1153(a) of title 18, United States Code, is
19 amended by inserting “an offense for which the maximum
20 statutory term of imprisonment under section 1363 is
21 greater than 5 years,” after “a felony under chapter
22 109A”.

23 (e) RACKETEER INFLUENCED AND CORRUPT ORGA-
24 NIZATIONS.—Section 1961(1) of title 18, United States
25 Code, is amended—

1 (1) in subparagraph (A), by inserting “, or
 2 would have been so chargeable if the act or threat
 3 (other than gambling) had not been committed in
 4 Indian country (as defined in section 1151) or in
 5 any other area of exclusive Federal jurisdiction,”
 6 after “chargeable under State law”; and

7 (2) in subparagraph (B), by inserting “section
 8 1123 (relating to interstate murder),” after “section
 9 1084 (relating to the transmission of wagering infor-
 10 mation),”.

11 (f) CARJACKING.—Section 2119 of title 18, United
 12 States Code, is amended by striking “, with the intent to
 13 cause death or serious bodily harm”.

14 (g) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO
 15 COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-
 16 LENCE.—Section 924(h) of title 18, United States Code,
 17 is amended to read as follows:

18 “(h) ILLEGAL TRANSFERS.—Whoever knowingly
 19 transfers a firearm, knowing that the firearm will be used
 20 to commit, or possessed in furtherance of, a crime of vio-
 21 lence or drug trafficking crime, shall be imprisoned for
 22 not more than 10 years, fined under this title, or both.”.

23 (h) AMENDMENT OF SPECIAL SENTENCING PROVI-
 24 SION.—Section 3582(d) of title 18, United States Code,
 25 is amended—

1 (1) by striking “chapter 95 (racketeering) or 96
 2 (racketeer influenced and corrupt organizations) of
 3 this title” and inserting “section 521 (criminal
 4 street gangs) or 522 (violent crimes in furtherance
 5 or in aid of criminal street gangs), in chapter 95
 6 (racketeering) or 96 (racketeer influenced and cor-
 7 rupt organizations),”; and

8 (2) by inserting “a criminal street gang or” be-
 9 fore “an illegal enterprise”.

10 (i) CONFORMING AMENDMENT RELATING TO OR-
 11 ders FOR RESTITUTION.—Section 3663(e)(4) of title 18,
 12 United States Code, is amended by striking “chapter 46
 13 or chapter 96 of this title” and inserting “section 521,
 14 under chapter 46 or 96,”.

15 (j) SPECIAL PROVISION FOR INDIAN COUNTRY.—No
 16 person subject to the criminal jurisdiction of an Indian
 17 tribal government shall be subject to section 3559(e) of
 18 title 18, United States Code, for any offense for which
 19 Federal jurisdiction is solely predicated on Indian country
 20 (as defined in section 1151 of such title 18) and which
 21 occurs within the boundaries of such Indian country un-
 22 less the governing body of such Indian tribe elects to sub-
 23 ject the persons under the criminal jurisdiction of the tribe
 24 to section 3559(e) of such title 18.

1 **SEC. 106. INCREASED PENALTIES FOR USE OF INTERSTATE**
2 **COMMERCE FACILITIES IN THE COMMISSION**
3 **OF MURDER-FOR-HIRE AND OTHER FELONY**
4 **CRIMES OF VIOLENCE.**

5 Section 1958 of title 18, United States Code, is
6 amended—

7 (1) by striking the header and inserting the fol-
8 lowing:

9 **“§ 1958. Use of interstate commerce facilities in the**
10 **commission of murder-for-hire and other**
11 **felony crimes of violence”;**

12 and

13 (2) by amending subsection (a) to read as fol-
14 lows:

15 “(a) Any person who travels in or causes another (in-
16 cluding the intended victim) to travel in interstate or for-
17 eign commerce, or uses or causes another (including the
18 intended victim) to use the mail or any facility in inter-
19 state or foreign commerce, with intent that a murder or
20 other felony crime of violence be committed in violation
21 of the laws of any State or the United States as consider-
22 ation for the receipt of, or as consideration for a promise
23 or agreement to pay, anything of pecuniary value, or who
24 conspires to do so—

25 “(1) may be fined under this title and shall be
26 imprisoned not more than 20 years;

1 ~~“(2) if personal injury results, may be fined~~
 2 ~~under this title and shall be imprisoned for not more~~
 3 ~~than 30 years; and~~

4 ~~“(3) if death results, may be fined not more~~
 5 ~~than \$250,000, and shall be punished by death or~~
 6 ~~imprisoned for any term of years or for life, or~~
 7 ~~both.”.~~

8 **SEC. 107. INCREASED PENALTIES FOR VIOLENT CRIMES IN**
 9 **AID OF RACKETEERING ACTIVITY.**

10 Section 1959(a) of title 18, United States Code, is
 11 amended to read as follows:

12 ~~“(a) Any person who, in furtherance or in aid of an~~
 13 ~~enterprise engaged in racketeering activity, murders, kid-~~
 14 ~~naps, sexually assaults, maims, assaults with a dangerous~~
 15 ~~weapon, commits assault resulting in serious bodily injury~~
 16 ~~upon, or threatens to commit a crime of violence against~~
 17 ~~any individual in violation of the laws of any State or the~~
 18 ~~United States, or attempts or conspires to do so, shall be~~
 19 ~~punished, in addition and consecutive to the punishment~~
 20 ~~provided for any other violation of this chapter—~~

21 ~~“(1) for murder, by death or imprisonment for~~
 22 ~~any term of years or for life, a fine under this title,~~
 23 ~~or both;~~

1 ~~“(2) for kidnapping or sexual assault, by im-~~
2 ~~prisonment for any term of years or for life, a fine~~
3 ~~under this title, or both;~~

4 ~~“(3) for maiming, by imprisonment for any~~
5 ~~term of years or for life, a fine under this title, or~~
6 ~~both;~~

7 ~~“(4) for assault with a dangerous weapon or as-~~
8 ~~sault resulting in serious bodily injury, by imprison-~~
9 ~~ment for not more than 30 years, a fine under this~~
10 ~~title, or both;~~

11 ~~“(5) for threatening to commit a crime of vio-~~
12 ~~lence, by imprisonment for not more than 10 years,~~
13 ~~a fine under this title, or both;~~

14 ~~“(6) for attempting or conspiring to commit~~
15 ~~murder, kidnapping, maiming, or sexual assault, by~~
16 ~~imprisonment for not more than 30 years, a fine~~
17 ~~under this title, or both; and~~

18 ~~“(7) for attempting or conspiring to commit as-~~
19 ~~sault with a dangerous weapon or assault which~~
20 ~~would result in serious bodily injury, by imprison-~~
21 ~~ment for not more than 20 years, a fine under this~~
22 ~~title, or both.”.~~

1 **SEC. 108. MURDER AND OTHER VIOLENT CRIMES COM-**
 2 **MITTED DURING AND IN RELATION TO A**
 3 **DRUG TRAFFICKING CRIME.**

4 (a) IN GENERAL.—Part D of the Controlled Sub-
 5 stances Act (21 U.S.C. 841 et seq.) is amended by adding
 6 at the end the following:

7 “MURDER AND OTHER VIOLENT CRIMES COMMITTED
 8 DURING AND IN RELATION TO A DRUG TRAFFICKING
 9 CRIME

10 “SEC. 424. (a) IN GENERAL.—Any person who, dur-
 11 ing and in relation to any drug trafficking crime, murders,
 12 kidnaps, sexually assaults, maims, assaults with a dan-
 13 gerous weapon, commits assault resulting in serious bodily
 14 injury upon, or threatens to commit a crime of violence
 15 against, any individual, or attempts or conspires to do so,
 16 shall be punished, in addition and consecutive to the pun-
 17 ishment provided for the drug trafficking crime—

18 “(1) in the case of murder, by death or impris-
 19 onment for any term of years or for life, a fine
 20 under title 18, United States Code, or both;

21 “(2) in the case of kidnapping or sexual assault
 22 by imprisonment for any term of years or for life,
 23 a fine under such title 18, or both;

24 “(3) in the case of maiming, by imprisonment
 25 for any term of years or for life, a fine under such
 26 title 18, or both;

1 “(4) in the case of assault with a dangerous
2 weapon or assault resulting in serious bodily injury,
3 by imprisonment not more than 30 years, a fine
4 under such title 18, or both;

5 “(5) in the case of threatening to commit a
6 crime of violence specified in paragraphs (1) through
7 (4), by imprisonment for not more than 10 years, a
8 fine under such title 18, or both;

9 “(6) in the case of attempting or conspiring to
10 commit murder, kidnapping, maiming, or sexual as-
11 sault, by imprisonment for not more than 30 years,
12 a fine under such title 18, or both; and

13 “(7) in the case of attempting or conspiring to
14 commit a crime involving assault with a dangerous
15 weapon or assault resulting in serious bodily injury,
16 by imprisonment for not more than 20 years, a fine
17 under such title 18, or both.

18 “(b) VENUE.—A prosecution for a violation of this
19 section may be brought in—

20 “(1) the judicial district in which the murder or
21 other crime of violence occurred; or

22 “(2) any judicial district in which the drug traf-
23 ficking crime may be prosecuted.

24 “(c) APPLICABLE DEATH PENALTY PROCEDURES.—

25 A defendant who has been found guilty of an offense under

1 this section for which a sentence of death is provided shall
 2 be subject to the provisions of chapter 228 of title 18,
 3 United States Code.

4 “(d) DEFINITIONS.—As used in this section—

5 “(1) the term ‘crime of violence’ has the mean-
 6 ing given that term in section 924(e)(3) of title 18,
 7 United States Code; and

8 “(2) the term ‘drug trafficking crime’ has the
 9 meaning given that term in section 924(e)(2) of title
 10 18, United States Code.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
 12 for the Controlled Substances Act is amended by inserting
 13 after the item relating to section 423, the following:

“Sec. 424. Murder and other violent crimes committed during and in relation
 to a drug trafficking crime.”.

14 **SEC. 109. SENTENCING GUIDELINES FOR GANG CRIMES, IN-**
 15 **CLUDING AN INCREASE IN OFFENSE LEVEL**
 16 **FOR PARTICIPATION IN CRIME AS A GANG**
 17 **MEMBER.**

18 Pursuant to its authority under section 994(p) of title
 19 28, United States Code, the United States Sentencing
 20 Commission shall amend the Federal sentencing guidelines
 21 to eliminate the policy statement in section 5K2.18 of the
 22 guidelines regarding section 521 of title 18, United States
 23 Code, and instead provide a base offense level in chapter
 24 2 of the guidelines for offenses described in sections 521,

1 522, and 523 of title 18, United States Code, that reflects
 2 the seriousness of these offenses. Such guidelines shall in-
 3 clude an appropriate enhancement (which shall be in addi-
 4 tion to any other adjustment under chapter 3 of the Fed-
 5 eral Sentencing guidelines) for any offense described in
 6 section 521, 522, or 523 if the offense was committed in
 7 furtherance or in aid of the activities of a criminal street
 8 gang.

9 **Subtitle B—Increased Federal Re-**
 10 **sources To Deter and Prevent**
 11 **at-Risk Youth From Joining Ille-**
 12 **gal Street Gangs**

13 **SEC. 110. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**
 14 **TENSITY” INTERSTATE GANG ACTIVITY**
 15 **AREAS.**

16 (a) **DEFINITIONS.**—In this section the following defi-
 17 nitions shall apply:

18 (1) **GOVERNOR.**—The term “Governor” means
 19 a Governor of a State or the Mayor of the District
 20 of Columbia.

21 (2) **HIGH INTENSITY INTERSTATE GANG ACTIV-**
 22 **ITY AREA.**—The term “high intensity interstate
 23 gang activity area” means an area within a State
 24 that is designated as a high intensity interstate gang
 25 activity area under subsection (b)(1).

1 ~~(3) STATE.~~—The term “State” means a State
 2 of the United States, the District of Columbia, and
 3 any commonwealth, territory, or possession of the
 4 United States.

5 ~~(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY~~
 6 ~~AREAS.~~—

7 ~~(1) DESIGNATION.~~—The Attorney General,
 8 after consultation with the Governors of appropriate
 9 States, may designate as high intensity interstate
 10 gang activity areas, specific areas that are located
 11 within 1 or more States.

12 ~~(2) ASSISTANCE.~~—In order to provide Federal
 13 assistance to high intensity interstate gang activity
 14 areas, the Attorney General shall—

15 ~~(A)~~ establish criminal street gang enforce-
 16 ment teams, consisting of Federal, State, and
 17 local law enforcement authorities, for the co-
 18 ordinated investigation, disruption, apprehen-
 19 sion, and prosecution of criminal street gangs
 20 and offenders in each high intensity interstate
 21 gang activity area;

22 ~~(B)~~ direct the reassignment or detailing
 23 from any Federal department or agency (sub-
 24 ject to the approval of the head of that depart-
 25 ment or agency, in the case of a department or

agency other than the Department of Justice) of personnel to each criminal street gang enforcement team; and

(C) provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—The team established pursuant to paragraph (2)(A) shall consist of agents and officers, where feasible, from—

(A) the Federal Bureau of Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(D) the United States Marshal's Service;

(E) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(F) the Department of Housing and Urban Development;

(G) State and local law enforcement; and

(H) State and local prosecutors.

(4) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity

1 interstate gang activity area under this section, the
 2 Attorney General shall consider—

3 (A) the current and predicted levels of
 4 gang crime activity in the area;

5 (B) the extent to which violent crime in
 6 the area appears to be related to criminal street
 7 gang activity, such as drug trafficking, murder,
 8 robbery, assaults, carjacking, arson, kidnap-
 9 ping, extortion, and other criminal activity;

10 (C) the extent to which State and local law
 11 enforcement agencies have committed resources
 12 to—

13 (i) respond to the gang crime prob-
 14 lem; and

15 (ii) participate in a gang enforcement
 16 team;

17 (D) the extent to which a significant in-
 18 crease in the allocation of Federal resources
 19 would enhance local response to the gang crime
 20 activities in the area; and

21 (E) any other criteria that the Attorney
 22 General considers to be appropriate.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) ~~IN GENERAL.~~—There are authorized to be
 2 appropriated \$100,000,000 for each of the fiscal
 3 years 2004 to 2008 to carry out this section.

4 (2) ~~USE OF FUNDS.~~—Of amounts made avail-
 5 able under paragraph (1) in each fiscal year—

6 (A) 60 percent shall be used to carry out
 7 subsection (b)(2); and

8 (B) 40 percent shall be used to make
 9 grants available for community-based programs
 10 to provide crime prevention, research, and
 11 intervention services that are designed for gang
 12 members and at-risk youth in areas designated
 13 pursuant to this section as high intensity inter-
 14 state gang activity areas.

15 **SEC. 111. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**
 16 **HOODS INITIATIVE TO IMPROVE ENFORCE-**
 17 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**
 18 **GANGS.**

19 (a) ~~IN GENERAL.~~—The Attorney General shall ex-
 20 pand the Project Safe Neighborhoods program to require
 21 each United States attorney to—

22 (1) identify, investigate, and prosecute signifi-
 23 cant criminal street gangs operating within their dis-
 24 trict;

1 (2) coordinate the identification, investigation,
 2 and prosecution of criminal street gangs among Fed-
 3 eral, State, and local law enforcement agencies; and
 4 (3) coordinate and establish criminal street
 5 gang enforcement teams, established under section
 6 101(b), in high intensity interstate gang activity
 7 areas within a United States attorney's district.

8 (b) **ADDITIONAL ASSISTANT UNITED STATES ATTOR-**
 9 **NEYS FOR PROJECT SAFE NEIGHBORHOODS.—**

10 (1) **IN GENERAL.—**The Attorney General may
 11 hire 94 additional Assistant United States attorneys
 12 to carry out the provisions of this section.

13 (2) **AUTHORIZATION OF APPROPRIATIONS.—**
 14 There are authorized to be appropriated \$7,500,000
 15 for each of the fiscal years 2004 through 2008 to
 16 carry out this section.

17 **SEC. 112. ADDITIONAL RESOURCES NEEDED BY THE FED-**
 18 **ERAL BUREAU OF INVESTIGATION TO INVES-**
 19 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**
 20 **STREET GANGS.**

21 (a) **RESPONSIBILITIES OF ATTORNEY GENERAL.—**
 22 The Attorney General shall require the Federal Bureau
 23 of Investigation to—

24 (1) increase funding for the Safe Streets Pro-
 25 gram; and

1 ~~(2) support the criminal street gang enforce-~~
 2 ~~ment teams, established under section 110(b), in~~
 3 ~~designated high intensity interstate gang activity~~
 4 ~~areas.~~

5 ~~(b) AUTHORIZATION OF APPROPRIATIONS.—~~

6 ~~(1) IN GENERAL.—In addition to amounts oth-~~
 7 ~~erwise authorized, there are authorized to be appro-~~
 8 ~~priated to the Federal Bureau of Investigation~~
 9 ~~\$5,000,000 for each of the fiscal years 2004 through~~
 10 ~~2008 to carry out the Safe Streets Program.~~

11 ~~(2) AVAILABILITY.—Any amounts appropriated~~
 12 ~~pursuant to paragraph (1) shall remain available~~
 13 ~~until expended.~~

14 **SEC. 113. GRANTS TO STATE AND LOCAL PROSECUTORS TO**
 15 **COMBAT VIOLENT CRIME AND TO PROTECT**
 16 **WITNESSES AND VICTIMS OF CRIMES.**

17 ~~(a) IN GENERAL.—Section 31702 of the Violent~~
 18 ~~Crime Control and Law Enforcement Act of 1994 (42~~
 19 ~~U.S.C. 13862) is amended—~~

20 ~~(1) in paragraph (3), by striking “and” at the~~
 21 ~~end;~~

22 ~~(2) in paragraph (4), by striking the period at~~
 23 ~~the end and inserting a semicolon; and~~

24 ~~(3) by adding at the end the following:~~

25 ~~“(5) to hire additional prosecutors to—~~

1 “(A) allow more cases to be prosecuted;
2 and

3 “(B) reduce backlogs;

4 “(6) to fund programs that enable prosecutors
5 to more effectively address drug, gang and youth vi-
6 olence, and other violent crime problems;

7 “(7) to fund technology, equipment, and train-
8 ing for prosecutors to increase the accurate identi-
9 fication and successful prosecution of young violent
10 offenders;

11 “(8) to assist prosecutors in community pros-
12 ecution, problem solving, and conflict resolution
13 techniques through collaborative efforts with police,
14 school officials, probation officers, social service
15 agencies, and community organizers; and

16 “(9) to create and expand witness and victim
17 protection programs to prevent threats, intimidation,
18 and retaliation against victims of, and witnesses to,
19 violent crimes.”.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
21 31707 of the Violent Crime Control and Law Enforcement
22 Act of 1994 (42 U.S.C. 13867) is amended to read as
23 follows:

1 ~~“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.~~

2 ~~“There are authorized to be appropriated~~
 3 ~~\$20,000,000 for each of the fiscal years 2004 through~~
 4 ~~2008 to carry out this subtitle.”.~~

5 **TITLE II—VIOLENT CRIME RE-**
 6 **FORMS NEEDED TO DETER**
 7 **AND PREVENT ILLEGAL GANG**
 8 **CRIME**

9 ~~SEC. 201. MULTIPLE INTERSTATE MURDER.~~

10 ~~Part I of chapter 51 of title 18, United States Code,~~
 11 ~~is amended by adding at the end the following new section:~~

12 ~~“SEC. 1123. USE OF INTERSTATE COMMERCE FACILITIES IN~~
 13 ~~THE COMMISSION OF MULTIPLE MURDER.~~

14 ~~“(a) IN GENERAL.—Any person who travels in or~~
 15 ~~causes another (including the intended victim) to travel~~
 16 ~~in interstate or foreign commerce, or uses or causes an-~~
 17 ~~other (including the intended victim) to use the mail or~~
 18 ~~any facility in interstate or foreign commerce, with intent~~
 19 ~~that 2 or more murders be committed in violation of the~~
 20 ~~laws of any State or the United States, or who conspires~~
 21 ~~to do so—~~

22 ~~“(1) shall be fined under this title, imprisoned~~
 23 ~~for not more than 30 years, or both;~~

24 ~~“(2) if personal injury results, shall be fined~~
 25 ~~under this title, imprisoned for not more than 30~~
 26 ~~years, or both; and~~

1 ~~“(3) if death results, may be fined not more~~
 2 ~~than \$250,000 under this title, and shall be pun-~~
 3 ~~ished by death or imprisoned for any term of years~~
 4 ~~or for life.~~

5 ~~“(b) DEFINITIONS.—As used in this section:~~

6 ~~“(1) FACILITY IN INTERSTATE COMMERCE.—~~

7 ~~The term ‘facility in interstate commerce’ includes~~
 8 ~~means of transportation and communication.~~

9 ~~“(2) STATE.—The term ‘State’ means each of~~
 10 ~~the several States of the United States, the District~~
 11 ~~of Columbia, and any commonwealth, territory, or~~
 12 ~~possession of the United States.”.~~

13 **SEC. 202. EXPANSION OF REBUTTABLE PRESUMPTION**
 14 **AGAINST RELEASE OF PERSONS CHARGED**
 15 **WITH FIREARMS OFFENSES.**

16 Section 3142 of title 18, United States Code, is
 17 amended—

18 ~~(1) in subsection (c), in the matter following~~
 19 ~~paragraph (3)—~~

20 ~~(A) by inserting “an offense under section~~
 21 ~~922(g)(1) where the underlying conviction is a~~
 22 ~~serious drug offense as defined in section~~
 23 ~~924(e)(2)(A) of title 18, United States Code,~~
 24 ~~for which a period of not more than 10 years~~
 25 ~~has elapsed since the date of the conviction or~~

the release of the person from imprisonment,
 whichever is later, or is a serious violent felony
 as defined in section 3559(c)(2)(F) of title 18,
 United States Code,” after “that the person
 committed”; and

(B) by inserting “or” before “the Mari-
 time”; and

(2) in paragraph (g), by amending paragraph
 (1) to read as follows:

“(1) the nature and circumstances of the of-
 fense charged, including whether the offense is a
 crime of violence, an offense involves a drug, fire-
 arm, explosive, or destructive device;”.

SEC. 203. VENUE IN CAPITAL CASES.

Section 3235 of title 18, United States Code, is
 amended to read as follows:

“§ 3235. Venue in capital cases

“(a) The trial for any offense punishable by death
 shall be held in the district where the offense was com-
 mitted or in any district in which the offense began, con-
 tinued, or was completed.

“(b) If the offense, or related conduct, under sub-
 section (a) involves activities which affect interstate or for-
 eign commerce, or the importation of an object or person

1 into the United States, such offense may be prosecuted
 2 in any district in which those activities occurred.”.

3 **SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

4 (a) **IN GENERAL.**—Chapter 214 of title 18, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 **“§ 3296. Violent crime offenses**

8 “No person shall be prosecuted, tried, or punished
 9 for any nonecapital felony, crime of violence (as defined in
 10 section 16), including any racketeering activity or gang
 11 crime which involves any violent crime, unless the indict-
 12 ment is found or the information is instituted not later
 13 than—

14 “(1) 10 years after the date on which the al-
 15 leged violation occurred;

16 “(2) 10 years after the date on which the con-
 17 tinuing offense was completed; or

18 “(3) 8 years after the date on which the alleged
 19 violation was first discovered.”.

20 (b) **CLERICAL AMENDMENT.**—The table of sections
 21 at the beginning of chapter 214 of title 18, United States
 22 Code, is amended by adding at the end the following:

“3296. Violent crime offenses.”.

1 **SEC. 205. PREDICATE CRIMES FOR AUTHORIZATION OF**
 2 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**
 3 **TRONIC COMMUNICATIONS.**

4 Section 2516(1) of title 18, United States Code, is
 5 amended—

6 (1) in paragraph (q), by striking “or.”;

7 (2) by redesignating paragraph (r) as para-
 8 graph (u); and

9 (3) by inserting after paragraph (q) the fol-
 10 lowing:

11 “(r) any violation of section 424 of the Con-
 12 trolled Substances Act (relating to murder and other
 13 violent crimes in furtherance of a drug trafficking
 14 crime);

15 “(s) any violation of 1123 of title 18, United
 16 States Code (relating to interstate murder);

17 “(t) any violation of section 521, 522, or 523
 18 (relating to criminal street gangs); or”.

19 **SEC. 206. CLARIFICATION OF DEFINITION OF CRIME OF VI-**
 20 **OLENCE.**

21 Section 16(b) of title 18, United States Code, is
 22 amended to read as follows:

23 “(b) any other offense that is a felony and that, by
 24 its nature, involves a substantial risk of physical force or
 25 injury against the person or property of another.”.

1 **SEC. 207. CLARIFICATION TO HEARSAY EXCEPTION FOR**
 2 **FORFEITURE BY WRONGDOING.**

3 Rule 804(b)(6) of the Federal Rules of Evidence is
 4 amended to read as follows:

5 “(6) **FORFEITURE BY WRONGDOING.** A state-
 6 ment offered against a party that has engaged or ac-
 7 quiesced in wrongdoing or such wrongdoing was rea-
 8 sonably foreseeable as part of a conspiracy of which
 9 the party was a member, that was intended to, and
 10 did, procure the unavailability of the declarant as
 11 a witness.”.

12 **SEC. 208. CLARIFICATION OF VENUE FOR RETALIATION**
 13 **AGAINST A WITNESS.**

14 Section 1513 of title 18, United States Code, is
 15 amended by—

16 (1) redesignating subsection (e) beginning with
 17 “Who conspires” as subsection (f); and
 18 (2) adding at the end the following:

19 “(g) A prosecution under this section may be brought
 20 in the district in which the official proceeding (whether
 21 or not pending, about to be instituted or was completed)
 22 was intended to be affected or was completed, or in which
 23 the conduct constituting the alleged offense occurred.”.

1 **SEC. 209. AMENDMENT OF SENTENCING GUIDELINES RE-**
2 **LATING TO CERTAIN GANG AND VIOLENT**
3 **CRIMES.**

4 (a) **DIRECTIVE TO THE UNITED STATES SEN-**
5 **TENCING COMMISSION.**—Pursuant to its authority under
6 section 994(p) of title 28, United States Code, and in ac-
7 cordance with this section, the United States Sentencing
8 Commission shall review and, if appropriate, amend its
9 guidelines and its policy statements to conform to the pro-
10 visions of this title.

11 (b) **REQUIREMENTS.**—In carrying out this section,
12 the Sentencing Commission shall—

13 (1) establish new guidelines and policy state-
14 ments, as warranted, in order to implement new or
15 revised criminal offenses created under this title;

16 (2) ensure that the sentencing guidelines and
17 policy statements reflect the serious nature of the of-
18 fenses and the penalties set forth in this title, the
19 growing incidence of serious gang and violent
20 crimes, and the need to modify the sentencing guide-
21 lines and policy statements to deter, prevent, and
22 punish such offenses;

23 (3) consider the extent to which the guidelines
24 and policy statements adequately address—

1 (A) whether the guideline offense levels
2 and enhancements for gang and violent
3 crimes—

4 (i) are sufficient to deter and punish
5 such offenses; and

6 (ii) are adequate in view of the statu-
7 tory increases in penalties contained in the
8 Act; and

9 (B) whether any existing or new specific
10 offense characteristics should be added to re-
11 flect congressional intent to increase gang and
12 violent crime penalties; punish offenders; and
13 deter gang and violent crime;

14 (4) assure reasonable consistency with other
15 relevant directives and with other sentencing guide-
16 lines;

17 (5) account for any additional aggravating or
18 mitigating circumstances that might justify excep-
19 tions to the generally applicable sentencing ranges;

20 (6) make any necessary conforming changes to
21 the sentencing guidelines; and

22 (7) assure that the guidelines adequately meet
23 the purposes of sentencing under section 3553(a)(2)
24 of title 18, United States Code.

1 **SEC. 210. INCREASED PENALTIES FOR CRIMINAL USE OF**
2 **FIREARMS IN CRIMES OF VIOLENCE AND**
3 **DRUG TRAFFICKING.**

4 (a) IN GENERAL.—Section 924(e)(1)(A) of title 18,
5 United States Code, is amended—

6 (1) by striking “shall” and inserting “or con-
7 spires to commit any of the above acts, shall, for
8 each instance in which the firearm is used, carried,
9 or possessed,”;

10 (2) in clause (i), by striking “5 years” and in-
11 serting “7 years”;

12 (3) by striking clause (ii);

13 (4) by striking clause (iii) and inserting the fol-
14 lowing:

15 “(ii) if the firearm is discharged, be sentenced
16 to a term of imprisonment of not less than 15
17 years”; and

18 (5) by inserting at the end the following:

19 “(iii) if the firearm is used to wound, injure, or
20 maim another person, be sentenced to a term of im-
21 prisonment of not less than 20 years; and

22 “(iv) if the death of a person results from the
23 use of the firearm, be punished by death or life im-
24 prisonment.”.

1 (b) CONFORMING AMENDMENT.—Section 924 of title
 2 18, United States Code, is amended by striking subsection
 3 (e).

4 **SEC. 211. CONFORMING AMENDMENT.**

5 The matter before paragraph (1) in section 922(d)
 6 of title 18, United States Code, is amended by inserting
 7 “, transfer,” after “sell”.

8 **TITLE III—JUVENILE CRIME RE-**
 9 **FORM FOR VIOLENT OFFEND-**
 10 **ERS**

11 **SEC. 301. TREATMENT OF FEDERAL JUVENILE OFFENDERS.**

12 (a) IN GENERAL.—Section 5032 of title 18, United
 13 States Code, is amended to read as follows:

14 **“§ 5032. Delinquency proceedings in district courts;**
 15 **juveniles tried as adults; transfer for**
 16 **criminal prosecution**

17 “(a) DELINQUENCY PROCEEDINGS IN DISTRICT
 18 COURTS.—

19 “(1) IN GENERAL.—A juvenile alleged to have
 20 committed an act of juvenile delinquency, other than
 21 a violation of law committed within the special mari-
 22 time and territorial jurisdiction of the United States
 23 for which the maximum authorized term of impris-
 24 onment does not exceed 6 months, shall not be pro-
 25 ceeded against in any court of the United States un-

1 less the Attorney General, after investigation, cer-
2 tifies to the appropriate district court of the United
3 States that—

4 “(A) the juvenile court or other appro-
5 priate court of a State does not have jurisdic-
6 tion or refuses to assume jurisdiction over that
7 juvenile with respect to such alleged act of juve-
8 nile delinquency;

9 “(B) the State does not have available pro-
10 grams and services adequate for the needs of
11 juveniles; or

12 “(C) there is a substantial Federal interest
13 in the case or the offense to warrant the exer-
14 cise of Federal jurisdiction.

15 “(2) FAILURE TO CERTIFY.—If the Attorney
16 General does not certify under paragraph (1), the
17 juvenile shall be surrendered to the appropriate legal
18 authorities of such State.

19 “(3) FEDERAL PROCEEDINGS.—If an alleged
20 juvenile delinquent is not surrendered to the authori-
21 ties of a State pursuant to this section, any pro-
22 ceedings against him shall be in an appropriate dis-
23 trict court of the United States. For such purposes,
24 the court may be convened at any time and place
25 within the district, in chambers or otherwise. The

1 Attorney General shall proceed by information or as
 2 authorized under section 3401(g) of this title, and
 3 no criminal prosecution shall be instituted for the al-
 4 leged act of juvenile delinquency except as provided
 5 below.

6 ~~“(b) TRANSFER FOR FEDERAL CRIMINAL PROSECU-~~
 7 ~~TION.—~~

8 ~~“(1) IN GENERAL.—A juvenile who is alleged to~~
 9 ~~have committed an act of juvenile delinquency and~~
 10 ~~who is not surrendered to State authorities shall be~~
 11 ~~proceeded against under this chapter unless—~~

12 ~~“(A) the juvenile has requested in writing~~
 13 ~~upon advice of counsel to be proceeded against~~
 14 ~~as an adult;~~

15 ~~“(B) with respect to a juvenile 15 years~~
 16 ~~and older alleged to have committed an act~~
 17 ~~after his fifteenth birthday which if committed~~
 18 ~~by an adult would be a felony that is a crime~~
 19 ~~of violence or an offense described in section~~
 20 ~~401 of the Controlled Substances Act (21~~
 21 ~~U.S.C. 841), or section 1002(a), 1005, or 1009~~
 22 ~~of the Controlled Substances Import and Ex-~~
 23 ~~port Act (21 U.S.C. 952(a), 955, 959), or sec-~~
 24 ~~tion 922(x) of this title, or in section 924 (b),~~
 25 ~~(g), or (h) of this title, the Attorney General~~

1 makes a motion to transfer the criminal pros-
2 ecution on the basis of the alleged act in the
3 appropriate district court of the United States
4 and the court finds, after hearing, such transfer
5 would be in the interest of justice as provided
6 in paragraph (2); or

7 “(C) with respect to a juvenile 13 years
8 and older alleged to have committed an act
9 after his thirteenth birthday which if committed
10 by an adult would be a felony that is the crime
11 of violence under section 1113 (a), (b), (c), 1111,
12 1113, or, if the juvenile possessed a firearm
13 during the offense, an offense under section
14 2111, 2113, 2241(a), or 2241(c), the Attorney
15 General makes a motion to transfer the crimi-
16 nal prosecution on the basis of the alleged act
17 in the appropriate district court of the United
18 States and the court finds, after hearing, such
19 transfer would be in the interest of justice as
20 provided in paragraph (2).

21 Notwithstanding sections 1152 and 1153, no person
22 subject to the criminal jurisdiction of an Indian trib-
23 al government shall be subject to subparagraph (C)
24 for any offense the Federal jurisdiction for which is
25 predicated solely on Indian country (as defined in

1 section 1151), and which has occurred within the
 2 boundaries of such Indian country, unless the gov-
 3 erning body of the tribe has elected that the pre-
 4 ceeding sentence have effect over land and persons
 5 subject to its criminal jurisdiction.

6 “(2) FACTORS.—

7 “(A) IN GENERAL.—Evidence of the fol-
 8 lowing factors shall be considered, and findings
 9 with regard to each factor shall be made in the
 10 record, in assessing whether a transfer under
 11 subparagraph (B) or (C) of paragraph (1)
 12 would be in the interest of justice:

13 “(i) The age and social background of
 14 the juvenile.

15 “(ii) The nature of the alleged of-
 16 fense.

17 “(iii) The extent and nature of the ju-
 18 venile’s prior delinquency record.

19 “(iv) The juvenile’s present intellec-
 20 tual development and psychological matu-
 21 rity. The nature of past treatment efforts
 22 and the juvenile’s response to such efforts.

23 “(v) The availability of programs de-
 24 signed to treat the juvenile’s behavioral
 25 problems.

1 “(B) NATURE OF THE OFFENSE.—In con-
 2 sidering the nature of the offense, as required
 3 by this paragraph, the court shall consider the
 4 extent to which the juvenile played a leadership
 5 role in an organization, or otherwise influenced
 6 other persons to take part in criminal activities,
 7 involving the use or distribution of controlled
 8 substances or firearms. Such a factor, if found
 9 to exist, shall weigh in favor of a transfer to
 10 adult status, but the absence of this factor shall
 11 not preclude such a transfer.

12 “(C) NOTICE.—Reasonable notice of the
 13 transfer hearing under subparagraph (B) or (C)
 14 of paragraph (1) shall be given to the juvenile,
 15 the juvenile’s parents, guardian, or custodian
 16 and to the juvenile’s counsel. The juvenile shall
 17 be assisted by counsel during the transfer hear-
 18 ing, and at every other critical stage of the pro-
 19 ceedings.

20 “(e) MANDATORY TRANSFER OF JUVENILE 16 OR
 21 OLDER.—A juvenile who is alleged to have committed an
 22 act on or after his sixteenth birthday which if committed
 23 by an adult would be a felony offense that has an element
 24 thereof the use, attempted use, or threatened use of phys-
 25 ical force against the person of another, or that, by its

1 very nature, involves a substantial risk that physical force
 2 against the person of another, or would be an offense de-
 3 scribed in section 32, 81, 844(d), (e), (f), (h), (i), or 2275
 4 of this title, subsection (b)(1) (a), (b), or (c), (d) or (e)
 5 of section 401 of the Controlled Substances Act, or section
 6 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the
 7 Controlled Substances Import and Export Act (21 U.S.C.
 8 952(a), 953, 959, 960(b) (1), (2), (3)), and who has pre-
 9 viously been found guilty of an act which if committed by
 10 an adult would have been one of the offenses set forth
 11 in this paragraph or an offense in violation of a State fel-
 12 ony statute that would have been such an offense if a cir-
 13 cumstance giving rise to Federal jurisdiction had existed,
 14 shall be transferred to the appropriate district court of
 15 the United States for criminal prosecution.

16 “(d) FILING BY UNITED STATES ATTORNEY
 17 AGAINST JUVENILES CHARGED AS ADULTS.—

18 “(1) IN GENERAL.—The United States attorney
 19 may charge as an adult a juvenile alleged to have
 20 committed an act on or after the day the juvenile at-
 21 tains the age of 16 years which if committed by an
 22 adult would be a serious violent felony as described
 23 in section 3559 (c)(2) and (c)(3).

24 “(2) OTHER OFFENSES.—In a prosecution
 25 under this subsection the juvenile may be prosecuted

1 and convicted as an adult for any other offense
 2 which is properly joined under the Federal Rules of
 3 Criminal Procedure, and may also be convicted as an
 4 adult of a lesser included offense.

5 “(3) REVIEWABILITY.—A determination to ap-
 6 prove or not to approve, or to institute or not to in-
 7 stitute, a prosecution under this subsection shall not
 8 be reviewable in any court.

9 “(e) PROCEEDINGS.—

10 “(1) SUBSEQUENT PROCEEDING BARRED.—
 11 Once a juvenile has entered a plea of guilty or the
 12 proceeding has reached the stage that evidence has
 13 begun to be taken with respect to a crime or an al-
 14 leged act of juvenile delinquency subsequent criminal
 15 prosecution or juvenile proceedings based upon such
 16 alleged act of delinquency shall be barred.

17 “(2) STATEMENTS.—Statements made by a ju-
 18 venile prior to or during a transfer hearing under
 19 this section shall not be admissible at subsequent
 20 criminal prosecutions except for impeachment pur-
 21 poses or in a prosecution for perjury or making a
 22 false statement.

23 “(3) FURTHER PROCEEDINGS.—Whenever a ju-
 24 venile transferred to district court under subsection
 25 (b) or (c) is not convicted of the crime upon which

1 the transfer was based on another crime which would
 2 have warranted transfer had the juvenile been ini-
 3 tially charged with that crime, further proceedings
 4 concerning the juvenile shall be conducted pursuant
 5 to the provisions of this chapter.

6 “(4) RECEIPT OF RECORDS.—A juvenile shall
 7 not be transferred to adult prosecution under sub-
 8 section (b) nor shall a hearing be held under section
 9 5037 (disposition after a finding of juvenile delin-
 10 quency) until any prior juvenile court records of
 11 such juvenile have been received by the court, or the
 12 clerk of the juvenile court has certified in writing
 13 that the juvenile has no prior record, or that the ju-
 14 venile’s record is unavailable and why it is unavail-
 15 able.

16 “(5) SPECIFIC ACTS DESCRIBED.—Whenever a
 17 juvenile is adjudged delinquent pursuant to the pro-
 18 visions of this chapter, the specific acts which the ju-
 19 venile has been found to have committed shall be de-
 20 scribed as part of the official record of the pro-
 21 ceedings and part of the juvenile’s official record.

22 “(f) STATE.—For purposes of this section, the term
 23 ‘State’ includes a State of the United States, the District
 24 of Columbia, and any commonwealth, territory, or posses-
 25 sion of the United States.”

1 (b) CONFORMING AMENDMENTS.—The analysis for
 2 chapter 403 of title 18, United States Code, is amended
 3 by striking the item relating to section 5032 and inserting
 4 the following:

“5032. Delinquency proceedings in district courts; juveniles tried as adults;
 transfer for criminal prosecution.”.

5 **SEC. 302. NOTIFICATION AFTER ARREST.**

6 Section 5033 of title 18, United States Code, is
 7 amended in the first sentence, by striking “immediately
 8 notify the Attorney General and” and inserting “imme-
 9 diately, or as soon as practicable thereafter, notify the
 10 United States attorney of the appropriate jurisdiction and
 11 shall promptly take reasonable steps to notify”.

12 **SEC. 303. RELEASE AND DETENTION PRIOR TO DISPOSI-**
 13 **TION.**

14 (a) DUTIES OF MAGISTRATE.—Section 5034 of title
 15 18, United States Code, is amended—

16 (1) in the first undesignated paragraph, by
 17 striking “The magistrate shall insure” and inserting
 18 the following:

19 “(a) IN GENERAL.—

20 “(1) REPRESENTATION BY COUNSEL.—The
 21 magistrate shall ensure”;

22 (2) in the second undesignated paragraph, by
 23 striking “The magistrate may appoint” and insert-
 24 ing the following:

1 “(2) GUARDIAN AD LITEM.—The magistrate
2 may appoint”;

3 (3) in the third undesignated paragraph, by
4 striking “If the juvenile” and inserting the following:

5 “(b) RELEASE PRIOR TO DISPOSITION.—Except as
6 provided in subsection (c), if the juvenile”; and

7 (4) by adding at the end the following:

8 “(c) RELEASE OF CERTAIN JUVENILES.—

9 “(1) IN GENERAL.—A juvenile, who is to be
10 tried as an adult under section 5032, shall be re-
11 leased pending trial in accordance with the applica-
12 ble provisions of chapter 207.

13 “(2) CONDITIONS.—A release under paragraph
14 (1) shall be conducted in the same manner, and
15 shall be subject to the same terms, conditions, and
16 sanctions for violation of a release condition, as pro-
17 vided for an adult under chapter 207.

18 “(d) PENALTY FOR AN OFFENSE COMMITTED WHILE
19 ON RELEASE.—

20 “(1) IN GENERAL.—A juvenile alleged to have
21 committed, while on release under this section, an
22 offense that, if committed by an adult, would be a
23 Federal criminal offense, shall be subject to prosecu-
24 tion under section 5032.

1 ~~“(2) APPLICABILITY OF CERTAIN PENALTIES.—~~

2 Section 3147 shall apply to a juvenile who is to be
3 tried as an adult under section 5032 for an offense
4 committed while on release under this section.”.

5 ~~(b) DETENTION PRIOR TO DISPOSITION.—~~Section
6 5035 of title 18, United States Code, is amended—

7 ~~(1) by striking “A juvenile” and inserting the~~
8 ~~following:~~

9 ~~“(a) IN GENERAL.—~~Except as provided in subsection
10 ~~(b), a juvenile”;~~ and

11 ~~(2) by adding at the end the following:~~

12 ~~“(b) DETENTION OF CERTAIN JUVENILES.—~~A juve-
13 nile who is to be tried as an adult under section 5032
14 shall be subject to detention in accordance with chapter
15 207.”.

16 **SEC. 304. SPEEDY TRIAL.**

17 Section 5036 of title 18, United States Code, is
18 amended to read as follows:

19 **“§ 5036. Speedy trial**

20 ~~“(a) IN GENERAL.—~~If an alleged delinquent, who is
21 to be proceeded against as a juvenile pursuant to section
22 5032 and who is in detention pending trial, is not brought
23 to trial within 70 days from the date upon which such
24 detention began, the information shall be dismissed on mo-

tion of the alleged delinquent or at the direction of the court.

“(b) PERIODS OF EXCLUSION.—The periods of exclusion under section 3161(h) shall apply to this section.

“(c) JUDICIAL CONSIDERATIONS.—In determining whether an information should be dismissed with or without prejudice, the court shall consider—

“(1) the seriousness of the alleged act of juvenile delinquency;

“(2) the facts and circumstances of the case that led to the dismissal; and

“(3) the impact of a reprosecution on the administration of justice.”.

SEC. 305. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended by adding at the end the following:

“(g) In any case in which a juvenile is tried as an adult in Federal court, the Federal criminal record of the juvenile shall be made available in the same manner as is applicable to the Federal criminal records of adult defendants.”.

SEC. 306. FEDERAL SENTENCING GUIDELINES.

(a) APPLICATION OF GUIDELINES TO CERTAIN JUVENILE DEFENDANTS.—Section 994(h) of title 28, United States Code, is amended by inserting “, or in which the

1 defendant is a juvenile who is tried as an adult,” after
 2 “old or older”.

3 (b) GUIDELINES FOR JUVENILE CASES.—Section
 4 994 of title 28, United States Code, is amended by adding
 5 at the end the following:

6 “(z) GUIDELINES FOR JUVENILE CASES.—Not later
 7 than 1 year after the date of enactment of the Act, the
 8 Commission, pursuant to its rules and regulations and
 9 consistent with all pertinent provisions of any Federal
 10 statute, shall promulgate and distribute, to all courts of
 11 the United States and to the United States Probation Sys-
 12 tem, guidelines, as described in this section, for use by
 13 a sentencing court in determining the sentence to be im-
 14 posed in a criminal case if the defendant committed the
 15 offense as a juvenile, and is tried as an adult pursuant
 16 to section 5032 of title 18.”.

17 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

18 (a) *SHORT TITLE.*—This Act may be cited as the
 19 “Gang Prevention and Effective Deterrence Act of 2004”.

20 (b) *TABLE OF CONTENTS.*—The table of contents of this
 21 Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL STREET GANG ABATEMENT ACT

Sec. 100. Findings.

*Subtitle A—Criminal Law Reforms and Enhanced Penalties To Deter and
 Punish Illegal Street Gang Activity*

Sec. 101. Solicitation or recruitment of persons in criminal street gang activity.

- Sec. 102. Criminal street gangs.*
Sec. 103. Violent crimes in furtherance or in aid of criminal street gangs.
Sec. 104. Interstate and foreign travel or transportation in aid of criminal street gangs.
Sec. 105. Amendments relating to violent crime in areas of exclusive Federal jurisdiction.
Sec. 106. Increased penalties for use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.
Sec. 107. Increased penalties for violent crimes in aid of racketeering activity.
Sec. 108. Murder and other violent crimes committed during and in relation to a drug trafficking crime.

Subtitle B—Increased Federal Resources To Deter and Prevent At-Risk Youth From Joining Illegal Street Gangs

- Sec. 110. Designation of and assistance for “high intensity” interstate gang activity areas.*
Sec. 111. Enhancement of project safe neighborhoods initiative to improve enforcement of criminal laws against violent gangs.
Sec. 112. Additional resources needed by the Federal Bureau of Investigation to investigate and prosecute violent criminal street gangs.
Sec. 113. Grants to State and local prosecutors to combat violent crime and to protect witnesses and victims of crimes.
Sec. 114. Reauthorize the gang resistance education and training projects program.

TITLE II—VIOLENT CRIME REFORMS NEEDED TO DETER AND PREVENT ILLEGAL GANG CRIME

- Sec. 201. Multiple interstate murder.*
Sec. 202. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
Sec. 203. Venue in capital cases.
Sec. 204. Statute of limitations for violent crime.
Sec. 205. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
Sec. 206. Clarification to hearsay exception for forfeiture by wrongdoing.
Sec. 207. Clarification of venue for retaliation against a witness.
Sec. 208. Amendment of sentencing guidelines relating to certain gang and violent crimes.
Sec. 209. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.
Sec. 210. Possession of firearms by dangerous felons.
Sec. 211. Conforming amendment.

TITLE III—JUVENILE CRIME REFORM FOR VIOLENT OFFENDERS

- Sec. 301. Treatment of Federal juvenile offenders.*
Sec. 302. Notification after arrest.
Sec. 303. Release and detention prior to disposition.
Sec. 304. Speedy trial.
Sec. 305. Federal sentencing guidelines.

***TITLE I—CRIMINAL STREET
GANG ABATEMENT ACT***

SEC. 100. FINDINGS.

Congress finds that—

(1) violent crime and drug trafficking are pervasive problems at the national, State, and local level;

(2) the crime rate is exacerbated by the association of persons in gangs to commit acts of violence and drug offenses;

(3) according to the most recent National Drug Threat Assessment, criminal street gangs are responsible for the distribution of much of the cocaine, methamphetamine, heroin, and other illegal drugs being distributed in rural and urban communities throughout the United States;

(4) gangs commit acts of violence or drug offenses for numerous motives, such as membership in or loyalty to the gang, for protecting gang territory, and for profit;

(5) gang presence has a pernicious effect on the free flow of commerce in local businesses and directly affects the freedom and security of communities plagued by gang activity;

(6) gangs often recruit and utilize minors to engage in acts of violence and other serious offenses out

1 *of a belief that the criminal justice systems are more*
2 *lenient on juvenile offenders;*

3 (7) *gangs often intimidate and threaten wit-*
4 *nesses to prevent successful prosecutions;*

5 (8) *gang recruitment can be deterred through in-*
6 *creased vigilance, strong criminal penalties, equal*
7 *partnerships with State and local law enforcement,*
8 *and proactive intervention efforts, particularly tar-*
9 *geted at juveniles, prior to gang involvement;*

10 (9) *State and local prosecutors, in hearings be-*
11 *fore the Committee on the Judiciary of the Senate, en-*
12 *listed the help of Congress in the prevention, inves-*
13 *tigation, and prosecution of gang crimes and in the*
14 *protection of witnesses and victims of gang crimes;*
15 *and*

16 (10) *because State and local prosecutors and law*
17 *enforcement have the expertise, experience, and con-*
18 *nection to the community that is needed to combat*
19 *gang violence, consultation and coordination between*
20 *Federal, State, and local law enforcement is critical*
21 *to the successful prosecutions of criminal street gangs.*

1 ***Subtitle A—Criminal Law Reforms***
 2 ***and Enhanced Penalties To***
 3 ***Deter and Punish Illegal Street***
 4 ***Gang Activity***

5 ***SEC. 101. SOLICITATION OR RECRUITMENT OF PERSONS IN***
 6 ***CRIMINAL STREET GANG ACTIVITY.***

7 *Chapter 26 of title 18, United States Code, is amended*
 8 *by adding at the end the following:*

9 ***“§ 522. Recruitment of persons to participate in a***
 10 ***criminal street gang***

11 *“(a) PROHIBITED ACTS.—It shall be unlawful for any*
 12 *person to recruit, employ, solicit, induce, command, or*
 13 *cause another person to be or remain as a member of a*
 14 *criminal street gang, or conspire to do so, with the intent*
 15 *to cause that person to participate in an offense described*
 16 *in section 521(a).*

17 *“(b) DEFINITION.—In this section:*

18 *“(1) CRIMINAL STREET GANG.—The term ‘crimi-*
 19 *nal street gang’ shall have the same meaning as in*
 20 *section 521(a) of this title.*

21 *“(2) MINOR.—The term ‘minor’ means a person*
 22 *who is less than 18 years of age.*

23 *“(c) PENALTIES.—Any person who violates subsection*
 24 *(a) shall—*

1 “(1) be imprisoned not more than 5 years, fined
2 under this title, or both; or

3 “(2) if the person recruited, solicited, induced,
4 commanded, or caused to participate or remain in a
5 criminal street gang is under the age of 18—

6 “(A) be imprisoned for not more than 10
7 years, fined under this title, or both; and

8 “(B) at the discretion of the sentencing
9 judge, be liable for any costs incurred by the
10 Federal Government, or by any State or local
11 government, for housing, maintaining, and treat-
12 ing the person until the person attains the age
13 of 18 years.”.

14 **SEC. 102. CRIMINAL STREET GANGS.**

15 (a) **CRIMINAL STREET GANG PROSECUTIONS.**—Sec-
16 tion 521 of title 18, United States Code, is amended to read
17 as follows:

18 **“§ 521. Criminal street gang prosecutions**

19 “(a) **DEFINITIONS.**—As used in this chapter:

20 “(1) **CRIMINAL STREET GANG.**—The term ‘crimi-
21 nal street gang’ means a formal or informal group,
22 club, organization, or association of 3 or more indi-
23 viduals, who individually, jointly, or in combination,
24 have committed or attempted to commit for the direct
25 or indirect benefit of, at the direction of, in further-

1 *ance of, or in association with the group, club organi-*
 2 *zation, or association at least 2 separate acts, each of*
 3 *which is a predicate gang crime, 1 of which occurs*
 4 *after the date of enactment of the Gang Prevention*
 5 *and Effective Deterrence Act of 2004 and the last of*
 6 *which occurs not later than 10 years (excluding any*
 7 *period of imprisonment) after the commission of a*
 8 *prior predicate gang crime, and 1 predicate gang*
 9 *crime is a crime of violence or involves manufac-*
 10 *turing, importing, distributing, possessing with intent*
 11 *to distribute, or otherwise dealing in a controlled sub-*
 12 *stance or listed chemicals (as those terms are defined*
 13 *in section 102 of the Controlled Substances Act (21*
 14 *U.S.C. 802)) provided that the activities of the crimi-*
 15 *nal street gang affect interstate or foreign commerce,*
 16 *or involve the use of any facility of, or travel in,*
 17 *interstate or foreign commerce.*

18 *“(2) PREDICATE GANG CRIME.—The term ‘predi-*
 19 *cate gang crime’ means—*

20 *“(A) any act, threat, conspiracy, or at-*
 21 *tempted act, which is chargeable under Federal*
 22 *or State law and punishable by imprisonment*
 23 *for more than 1 year involving—*

24 *“(i) murder;*

25 *“(ii) manslaughter;*

- 1 “(iii) maiming;
2 “(iv) assault with a dangerous weapon;
3 “(v) assault resulting in serious bodily
4 injury;
5 “(vi) gambling;
6 “(vii) kidnapping;
7 “(viii) robbery;
8 “(ix) extortion;
9 “(x) arson;
10 “(xi) obstruction of justice;
11 “(xii) tampering with or retaliating
12 against a witness, victim, or informant;
13 “(xiii) burglary;
14 “(xiv) sexual assault (which means
15 any offense that involves conduct that would
16 violate chapter 109A if the conduct occurred
17 in the special maritime and territorial ju-
18 risdiction);
19 “(xv) carjacking; or
20 “(xvi) manufacturing, importing, dis-
21 tributing, possessing with intent to dis-
22 tribute, or otherwise dealing in a controlled
23 substance or listed chemicals (as those terms
24 are defined in section 102 of the Controlled
25 Substances Act (21 U.S.C. 802));

1 “(B) any act punishable by imprisonment
2 for more than 1 year under—

3 “(i) section 844 (relating to explosive
4 materials);

5 “(ii) section 922(g)(1) (where the un-
6 derlying conviction is a violent felony (as
7 defined in section 924(e)(2)(B) of this title)
8 or is a serious drug offense (as defined in
9 section 924(e)(2)(A) of this title));

10 “(iii) subsection (a)(2), (b), (c), (g), or
11 (h) of section 924 (relating to receipt, pos-
12 session, and transfer of firearms);

13 “(iv) sections 1028 and 1029 (relating
14 to fraud and related activity in connection
15 with identification documents or access de-
16 vices);

17 “(v) section 1503 (relating to obstruc-
18 tion of justice);

19 “(vi) section 1510 (relating to obstruc-
20 tion of criminal investigations);

21 “(vii) section 1512 (relating to tam-
22 pering with a witness, victim, or inform-
23 ant), or section 1513 (relating to retaliating
24 against a witness, victim, or informant);

1 “(viii) section 1708 (relating to theft of
2 stolen mail matter);

3 “(ix) section 1951 (relating to inter-
4 ference with commerce, robbery or extor-
5 tion);

6 “(x) section 1952 (relating to racket-
7 eering);

8 “(xi) section 1956 (relating to the
9 laundering of monetary instruments);

10 “(xii) section 1957 (relating to engag-
11 ing in monetary transactions in property
12 derived from specified unlawful activity);

13 “(xiii) section 1958 (relating to use of
14 interstate commerce facilities in the com-
15 mission of murder-for-hire); or

16 “(xiv) sections 2312 through 2315 (re-
17 lating to interstate transportation of stolen
18 motor vehicles or stolen property); or

19 “(C) any act involving the Immigration
20 and Nationality Act, section 274 (relating to
21 bringing in and harboring certain aliens), sec-
22 tion 277 (relating to aiding or assisting certain
23 aliens to enter the United States), or section 278
24 (relating to importation of alien for immoral
25 purpose).

1 “(3) *STATE*.—The term ‘State’ means each of the
 2 *several States of the United States, the District of Co-*
 3 *lumbia, and any commonwealth, territory, or posses-*
 4 *sion of the United States.*

5 “(b) *PARTICIPATION IN CRIMINAL STREET GANGS*.—
 6 *It shall be unlawful—*

7 “(1) *to commit, or conspire or attempt to com-*
 8 *mit a predicate crime—*

9 “(A) *in furtherance or in aid of the activi-*
 10 *ties of a criminal street gang;*

11 “(B) *for the purpose of gaining entrance to*
 12 *or maintaining or increasing position in such a*
 13 *gang; or*

14 “(C) *for the direct or indirect benefit of the*
 15 *criminal street gang, or in association with the*
 16 *criminal street gang; or*

17 “(2) *to employ, use, command, counsel, persuade,*
 18 *induce, entice, or coerce any individual to commit,*
 19 *cause to commit, or facilitate the commission of, a*
 20 *predicate gang crime—*

21 “(A) *in furtherance or in aid of the activi-*
 22 *ties of a criminal street gang;*

23 “(B) *for the purpose of gaining entrance to*
 24 *or maintaining or increasing position in such a*
 25 *gang; or*

1 “(C) *for the direct or indirect benefit or the*
 2 *criminal street gang, or in association with the*
 3 *criminal street gang.*

4 “(c) *PENALTIES.—Whoever violates paragraphs (1) or*
 5 *(2) of subsection (b)—*

6 “(1) *shall be fined under this title, imprisoned*
 7 *for not more than 30 years, or both; and*

8 “(2) *if the violation is based on a predicate gang*
 9 *crime for which the maximum penalty includes life*
 10 *imprisonment, shall be fined under this title, impris-*
 11 *oned for any term of years or for life, or both.*

12 “(d) *FORFEITURE.—*

13 “(1) *IN GENERAL.—The court, in imposing sen-*
 14 *tence on a person who is convicted of an offense under*
 15 *this section, shall order that the defendant forfeit to*
 16 *the United States—*

17 “(A) *any property, real or personal, consti-*
 18 *tuting or traceable to gross proceeds obtained*
 19 *from such offense; and*

20 “(B) *any property used or intended to be*
 21 *used, in any manner or part, to commit or to*
 22 *facilitate the commission of such violation.*

23 “(2) *CRIMINAL PROCEDURES.—The procedures*
 24 *set forth in section 413 of the Controlled Substances*
 25 *Act (21 U.S.C. 853), other than subsection (d) of that*

1 *section, and in rule 32.2 of the Federal Rules of*
 2 *Criminal Procedure, shall apply to all stages of a*
 3 *criminal forfeiture proceeding under this section.*

4 *“(3) CIVIL PROCEDURES.—Property subject to*
 5 *forfeiture under paragraph (1) may be forfeited in a*
 6 *civil case pursuant to the procedures set forth in*
 7 *chapter 46 of this title.”.*

8 *(b) CLERICAL AMENDMENT.—The table of sections at*
 9 *the beginning of chapter 26 of title 18, United States Code,*
 10 *is amended to read as follows:*

“521. Criminal street gang prosecutions.”.

11 **SEC. 103. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF**
 12 **CRIMINAL STREET GANGS.**

13 *(a) VIOLENT CRIMES AND CRIMINAL STREET GANG*
 14 *RECRUITMENT.—Chapter 26 of title 18, United States*
 15 *Code, as amended by section 101, is amended by adding*
 16 *at the end the following:*

17 **“§523. Violent crimes in furtherance or in aid of a**
 18 **criminal street gang**

19 *“(a) Any person who, for the purpose of gaining en-*
 20 *trance to or maintaining or increasing position in, or in*
 21 *furtherance or in aid of, or for the direct or indirect benefit*
 22 *of, or in association with a criminal street gang, or as con-*
 23 *sideration for the receipt of, or as consideration for a prom-*
 24 *ise or agreement to pay, anything of pecuniary value to*
 25 *or from a criminal street gang, murders, kidnaps, sexually*

1 assaults (which means any offense that involved conduct
 2 that would violate chapter 109A if the conduct occurred in
 3 the special maritime and territorial jurisdiction), maims,
 4 assaults with a dangerous weapon, commits assault result-
 5 ing in serious bodily injury upon, commits any other crime
 6 of violence or threatens to commit a crime of violence
 7 against any individual, or attempts or conspires to do so,
 8 shall be punished, in addition and consecutive to the pun-
 9 ishment provided for any other violation of this chapter—

10 “(1) for murder, by death or imprisonment for
 11 any term of years or for life, a fine under this title,
 12 or both;

13 “(2) for kidnapping or sexual assault, by impris-
 14 onment for any term of years or for life, a fine under
 15 this title, or both;

16 “(3) for maiming, by imprisonment for any
 17 term of years or for life, a fine under this title, or
 18 both;

19 “(4) for assault with a dangerous weapon or as-
 20 sault resulting in serious bodily injury, by imprison-
 21 ment for not more than 30 years, a fine under this
 22 title, or both;

23 “(5) for any other crime of violence, by impris-
 24 onment for not more than 20 years, a fine under this
 25 title, or both;

1 “(6) for threatening to commit a crime of vio-
 2 lence specified in paragraphs (1) through (4), by im-
 3 prisonment for not more than 10 years, a fine under
 4 this title, or both;

5 “(7) for attempting or conspiring to commit
 6 murder, kidnapping, maiming, or sexual assault, by
 7 imprisonment for not more than 30 years, a fine
 8 under this title, or both; and

9 “(8) for attempting or conspiring to commit a
 10 crime involving assault with a dangerous weapon or
 11 assault resulting in serious bodily injury, by impris-
 12 onment for not more than 20 years, a fine under this
 13 title, or both.

14 “(b) *DEFINITION.*—In this section, the term ‘criminal
 15 street gang’ has the same meaning as in section 521 of this
 16 title.”.

17 (b) *CLERICAL AMENDMENT.*—The table of sections at
 18 the beginning of chapter 26 of title 18, United States Code,
 19 is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.

“523. Violent crimes in furtherance of a criminal street gang.”.

20 **SEC. 104. INTERSTATE AND FOREIGN TRAVEL OR TRANS-**
 21 **PORTATION IN AID OF RACKETEERING EN-**
 22 **TERPRISES AND CRIMINAL STREET GANGS.**

23 Section 1952 of title 18, United States Code, is amend-
 24 ed—

1 (1) *in subsection (a)—*

2 (A) *by striking “and thereafter performs or*
 3 *attempts to perform” and inserting “and there-*
 4 *after performs, or attempts or conspires to per-*
 5 *form”;*

6 (B) *by striking “5 years” and inserting “10*
 7 *years”;* *and*

8 (C) *by inserting “punished by death or”*
 9 *after “if death results shall be”;*

10 (2) *by redesignating subsections (b) and (c) as*
 11 *subsections (c) and (d), respectively;*

12 (3) *by inserting after subsection (a) the fol-*
 13 *lowing:*

14 “(b) *Whoever travels in interstate or foreign commerce*
 15 *or uses the mail or any facility in interstate or foreign com-*
 16 *merce, with the intent to kill, assault, bribe, force, intimi-*
 17 *date, or threaten any person, to delay or influence the testi-*
 18 *mony of, or prevent from testifying, a witness in a State*
 19 *criminal proceeding and thereafter performs, or attempts*
 20 *or conspires to perform, an act described in this subsection,*
 21 *shall—*

22 “(1) *be fined under this title, imprisoned for any*
 23 *term of years, or both; and*

24 “(2) *if death results, be punished by death or im-*
 25 *prisonment for any term of years or for life.”; and*

1 (4) in subsection (c)(2), as redesignated under
 2 subparagraph (B), by inserting “intimidation of, or
 3 retaliation against, a witness, victim, juror, or in-
 4 formant,” after “extortion, bribery,”.

5 **SEC. 105. AMENDMENTS RELATING TO VIOLENT CRIME IN**
 6 **AREAS OF EXCLUSIVE FEDERAL JURISDIC-**
 7 **TION.**

8 (a) *ASSAULT WITHIN MARITIME AND TERRITORIAL*
 9 *JURISDICTION OF UNITED STATES.*—Section 113(a)(3) of
 10 *title 18, United States Code, is amended by striking “with*
 11 *intent to do bodily harm, and without just cause or ex-*
 12 *cuse,”.*

13 (b) *MANSLAUGHTER.*—Section 1112(b) of title 18,
 14 *United States Code, is amended by—*

15 (1) striking “ten years” and inserting “20
 16 years”; and

17 (2) striking “six years” and inserting “10
 18 years”.

19 (c) *OFFENSES COMMITTED WITHIN INDIAN COUN-*
 20 *TRY.*—Section 1153(a) of title 18, *United States Code, is*
 21 *amended by inserting “an offense for which the maximum*
 22 *statutory term of imprisonment under section 1363 is great-*
 23 *er than 5 years,” after “a felony under chapter 109A,”.*

1 (d) *RACKETEER INFLUENCED AND CORRUPT ORGANI-*
 2 *ZATIONS.*—Section 1961(1) of title 18, United States Code,
 3 *is amended—*

4 (1) *in subparagraph (A), by inserting “, or*
 5 *would have been so chargeable if the act or threat*
 6 *(other than lawful forms of gambling) had not been*
 7 *committed in Indian country (as defined in section*
 8 *1151) or in any other area of exclusive Federal juris-*
 9 *isdiction,” after “chargeable under State law”; and*

10 (2) *in subparagraph (B), by inserting “section*
 11 *1123 (relating to multiple interstate murder),” after*
 12 *“section 1084 (relating to the transmission of wager-*
 13 *ing information),”.*

14 (e) *CARJACKING.*—Section 2119 of title 18, United
 15 *States Code, is amended by striking “, with the intent to*
 16 *cause death or serious bodily harm”.*

17 (f) *CLARIFICATION OF ILLEGAL GUN TRANSFERS TO*
 18 *COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-*
 19 *LENCE.*—Section 924(h) of title 18, United States Code, *is*
 20 *amended to read as follows:*

21 “(h) *ILLEGAL TRANSFERS.*—Whoever knowingly
 22 *transfers a firearm, knowing that the firearm will be used*
 23 *to commit, or possessed in furtherance of, a crime of vio-*
 24 *lence (as defined in subsection (c)(3)) or drug trafficking*

1 *crime (as defined in subsection (c)(2)), shall be imprisoned*
 2 *for not more than 10 years, fined under this title, or both.”.*

3 (g) *AMENDMENT OF SPECIAL SENTENCING PROVI-*
 4 *SION.—Section 3582(d) of title 18, United States Code, is*
 5 *amended—*

6 (1) *by striking “chapter 95 (racketeering) or 96*
 7 *(racketeer influenced and corrupt organizations) of*
 8 *this title” and inserting “section 521 (criminal street*
 9 *gangs) or 522 (violent crimes in furtherance or in aid*
 10 *of criminal street gangs), in chapter 95 (racketeering)*
 11 *or 96 (racketeer influenced and corrupt organiza-*
 12 *tions),”; and*

13 (2) *by inserting “a criminal street gang or” be-*
 14 *fore “an illegal enterprise”.*

15 (h) *CONFORMING AMENDMENT RELATING TO ORDERS*
 16 *FOR RESTITUTION.—Section 3663(c)(4) of title 18, United*
 17 *States Code, is amended by striking “chapter 46 or chapter*
 18 *96 of this title” and inserting “section 521, under chapter*
 19 *46 or 96,”.*

20 (i) *SPECIAL PROVISION FOR INDIAN COUNTRY.—No*
 21 *person subject to the criminal jurisdiction of an Indian*
 22 *tribal government shall be subject to section 3559(e) of title*
 23 *18, United States Code, for any offense for which Federal*
 24 *jurisdiction is solely predicated on Indian country (as de-*
 25 *fined in section 1151 of such title 18) and which occurs*

1 *within the boundaries of such Indian country unless the*
 2 *governing body of such Indian tribe elects to subject the per-*
 3 *sons under the criminal jurisdiction of the tribe to section*
 4 *3559(e) of such title 18.*

5 **SEC. 106. INCREASED PENALTIES FOR USE OF INTERSTATE**
 6 **COMMERCE FACILITIES IN THE COMMISSION**
 7 **OF MURDER-FOR-HIRE AND OTHER FELONY**
 8 **CRIMES OF VIOLENCE.**

9 *Section 1958 of title 18, United States Code, is amend-*
 10 *ed—*

11 *(1) by striking the header and inserting the fol-*
 12 *lowing:*

13 **“§1958. Use of interstate commerce facilities in the**
 14 **commission of murder-for-hire and other**
 15 **felony crimes of violence”;**

16 *and*

17 *(2) by amending subsection (a) to read as fol-*
 18 *lows:*

19 *“(a) Any person who travels in or causes another (in-*
 20 *cluding the intended victim) to travel in interstate or for-*
 21 *eign commerce, or uses or causes another (including the in-*
 22 *tended victim) to use the mail or any facility in interstate*
 23 *or foreign commerce, with intent that a murder or other*
 24 *felony crime of violence be committed in violation of the*
 25 *laws of any State or the United States as consideration for*

1 *the receipt of, or as consideration for a promise or agree-*
 2 *ment to pay, anything of pecuniary value, or who conspires*
 3 *to do so—*

4 “(1) *may be fined under this title and shall be*
 5 *imprisoned not more than 20 years;*

6 “(2) *if personal injury results, may be fined*
 7 *under this title and shall be imprisoned for not more*
 8 *than 30 years; and*

9 “(3) *if death results, may be fined not more than*
 10 *\$250,000, and shall be punished by death or impris-*
 11 *oned for any term of years or for life, or both.”.*

12 **SEC. 107. INCREASED PENALTIES FOR VIOLENT CRIMES IN**
 13 **AID OF RACKETEERING ACTIVITY.**

14 *Section 1959(a) of title 18, United States Code, is*
 15 *amended to read as follows:*

16 “(a) *Any person who, as consideration for the receipt*
 17 *of, or as consideration for a promise or agreement to pay,*
 18 *anything of pecuniary value from an enterprise engaged in*
 19 *racketeering activity, or for the purpose of gaining entrance*
 20 *to or maintaining or increasing position in an enterprise*
 21 *engaged in racketeering activity, or in furtherance or in*
 22 *aid of an enterprise engaged in racketeering activity, mur-*
 23 *ders, kidnaps, sexually assaults (which means any offense*
 24 *that involved conduct that would violate chapter 109A if*
 25 *the conduct occurred in the special maritime and territorial*

1 *jurisdiction), maims, assaults with a dangerous weapon,*
 2 *commits assault resulting in serious bodily injury upon, or*
 3 *threatens to commit a crime of violence against any indi-*
 4 *vidual in violation of the laws of any State or the United*
 5 *States, or attempts or conspires to do so, shall be punished,*
 6 *in addition and consecutive to the punishment provided for*
 7 *any other violation of this chapter—*

8 “(1) *for murder, by death or imprisonment for*
 9 *any term of years or for life, a fine under this title,*
 10 *or both;*

11 “(2) *for kidnapping or sexual assault, by impris-*
 12 *onment for any term of years or for life, a fine under*
 13 *this title, or both;*

14 “(3) *for maiming, by imprisonment for any*
 15 *term of years or for life, a fine under this title, or*
 16 *both;*

17 “(4) *for assault with a dangerous weapon or as-*
 18 *sault resulting in serious bodily injury, by imprison-*
 19 *ment for not more than 30 years, a fine under this*
 20 *title, or both;*

21 “(5) *for threatening to commit a crime of vio-*
 22 *lence, by imprisonment for not more than 10 years,*
 23 *a fine under this title, or both;*

24 “(6) *for attempting or conspiring to commit*
 25 *murder, kidnapping, maiming, or sexual assault, by*

1 *imprisonment for not more than 30 years, a fine*
 2 *under this title, or both; and*

3 *“(7) for attempting or conspiring to commit as-*
 4 *sault with a dangerous weapon or assault which*
 5 *would result in serious bodily injury, by imprison-*
 6 *ment for not more than 20 years, a fine under this*
 7 *title, or both.”.*

8 **SEC. 108. MURDER AND OTHER VIOLENT CRIMES COM-**
 9 **MITTED DURING AND IN RELATION TO A**
 10 **DRUG TRAFFICKING CRIME.**

11 *(a) IN GENERAL.—Part D of the Controlled Substances*
 12 *Act (21 U.S.C. 841 et seq.) is amended by adding at the*
 13 *end the following:*

14 *“MURDER AND OTHER VIOLENT CRIMES COMMITTED*
 15 *DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME*

16 *“SEC. 424. (a) IN GENERAL.—Any person who, during*
 17 *and in relation to any drug trafficking crime, murders, kid-*
 18 *naps, sexually assaults (which means any offense that in-*
 19 *volved conduct that would violate chapter 109A if the con-*
 20 *duct occurred in the special maritime and territorial juris-*
 21 *diction), maims, assaults with a dangerous weapon, com-*
 22 *mits assault resulting in serious bodily injury upon, com-*
 23 *mits any other crime of violence or threatens to commit a*
 24 *crime of violence against, any individual, or attempts or*
 25 *conspires to do so, shall be punished, in addition and con-*

1 *secutive to the punishment provided for the drug trafficking*
2 *crime—*

3 “(1) *in the case of murder, by death or impris-*
4 *onment for any term of years or for life, a fine under*
5 *title 18, United States Code, or both;*

6 “(2) *in the case of kidnapping or sexual assault*
7 *by imprisonment for any term of years or for life, a*
8 *fine under such title 18, or both;*

9 “(3) *in the case of maiming, by imprisonment*
10 *for any term of years or for life, a fine under such*
11 *title 18, or both;*

12 “(4) *in the case of assault with a dangerous*
13 *weapon or assault resulting in serious bodily injury,*
14 *by imprisonment not more than 30 years, a fine*
15 *under such title 18, or both;*

16 “(5) *in the case of committing any other crime*
17 *of violence, by imprisonment for not more than 20*
18 *years, a fine under this title, or both;*

19 “(6) *in the case of threatening to commit a crime*
20 *of violence specified in paragraphs (1) through (4), by*
21 *imprisonment for not more than 10 years, a fine*
22 *under such title 18, or both;*

23 “(7) *in the case of attempting or conspiring to*
24 *commit murder, kidnapping, maiming, or sexual as-*

1 sault, by imprisonment for not more than 30 years,
2 a fine under such title 18, or both; and

3 “(8) in the case of attempting or conspiring to
4 commit a crime involving assault with a dangerous
5 weapon or assault resulting in serious bodily injury,
6 by imprisonment for not more than 20 years, a fine
7 under such title 18, or both.

8 “(b) *VENUE*.—A prosecution for a violation of this sec-
9 tion may be brought in—

10 “(1) the judicial district in which the murder or
11 other crime of violence occurred; or

12 “(2) any judicial district in which the drug traf-
13 ficking crime may be prosecuted.

14 “(c) *APPLICABLE DEATH PENALTY PROCEDURES*.—A
15 defendant who has been found guilty of an offense under
16 this section for which a sentence of death is provided shall
17 be subject to the provisions of chapter 228 of title 18, United
18 States Code.

19 “(d) *DEFINITIONS*.—As used in this section—

20 “(1) the term ‘crime of violence’ has the meaning
21 given that term in section 16 of title 18, United
22 States Code; and

23 “(2) the term ‘drug trafficking crime’ has the
24 meaning given that term in section 924(c)(2) of title
25 18, United States Code.”.

1 (b) *CLERICAL AMENDMENT.*—*The table of contents for*
 2 *the Controlled Substances Act is amended by inserting after*
 3 *the item relating to section 423, the following:*

*“Sec. 424. Murder and other violent crimes committed during and in relation to
 a drug trafficking crime.”.*

4 ***Subtitle B—Increased Federal Re-***
 5 ***sources To Suppress, Deter, and***
 6 ***Prevent At-Risk Youth From***
 7 ***Joining Illegal Street Gangs***

8 ***SEC. 110. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-***
 9 ***TENSITY” INTERSTATE GANG ACTIVITY***
 10 ***AREAS.***

11 (a) *DEFINITIONS.*—*In this section the following defini-*
 12 *tions shall apply:*

13 (1) *GOVERNOR.*—*The term “Governor” means a*
 14 *Governor of a State or the Mayor of the District of*
 15 *Columbia.*

16 (2) *HIGH INTENSITY INTERSTATE GANG ACTIVITY*
 17 *AREA.*—*The term “high intensity interstate gang ac-*
 18 *tivity area” means an area within a State that is*
 19 *designated as a high intensity interstate gang activity*
 20 *area under subsection (b)(1).*

21 (3) *STATE.*—*The term “State” means a State of*
 22 *the United States, the District of Columbia, and any*
 23 *commonwealth, territory, or possession of the United*
 24 *States. The term “State” shall include an “Indian*

1 *tribe”, as defined by section 102 of the Federally Rec-*
 2 *ognized Indian Tribe List Act of 1994 (25 U.S.C.*
 3 *479a).*

4 *(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY*
 5 *AREAS.—*

6 *(1) DESIGNATION.—The Attorney General, after*
 7 *consultation with the Governors of appropriate*
 8 *States, may designate as high intensity interstate*
 9 *gang activity areas, specific areas that are located*
 10 *within 1 or more States. To the extent that the goals*
 11 *of a high intensity interstate gang activity area*
 12 *(HIIGAA) overlap with the goals of a high intensity*
 13 *drug trafficking area (HIDTA), the Attorney General*
 14 *may merge the 2 areas to serve as a dual-purpose en-*
 15 *tity. The Attorney General may not make the final*
 16 *designation of a high intensity interstate gang activ-*
 17 *ity area without first consulting with and receiving*
 18 *comment from local elected officials representing com-*
 19 *munities within the State of the proposed designation.*

20 *(2) ASSISTANCE.—In order to provide Federal*
 21 *assistance to high intensity interstate gang activity*
 22 *areas, the Attorney General shall—*

23 *(A) establish criminal street gang enforce-*
 24 *ment teams, consisting of Federal, State, and*
 25 *local law enforcement authorities, for the coordi-*

1 *nated investigation, disruption, apprehension,*
 2 *and prosecution of criminal street gangs and of-*
 3 *fenders in each high intensity interstate gang ac-*
 4 *tivity area;*

5 *(B) direct the reassignment or detailing*
 6 *from any Federal department or agency (subject*
 7 *to the approval of the head of that department*
 8 *or agency, in the case of a department or agency*
 9 *other than the Department of Justice) of per-*
 10 *sonnel to each criminal street gang enforcement*
 11 *team; and*

12 *(C) provide all necessary funding for the*
 13 *operation of the criminal street gang enforcement*
 14 *team in each high intensity interstate gang ac-*
 15 *tivity area.*

16 *(3) COMPOSITION OF CRIMINAL STREET GANG*
 17 *ENFORCEMENT TEAM.—The team established pursuant*
 18 *to paragraph (2)(A) shall consist of agents and offi-*
 19 *cers, where feasible, from—*

20 *(A) the Bureau of Alcohol, Tobacco, Fire-*
 21 *arms, and Explosives;*

22 *(B) the Department of Homeland Security;*

23 *(C) the Department of Housing and Urban*
 24 *Development;*

25 *(D) the Drug Enforcement Administration;*

- 1 (E) the Internal Revenue Service;
- 2 (F) the Federal Bureau of Investigation;
- 3 (G) the United States Marshal's Service;
- 4 (H) the United States Postal Service;
- 5 (I) State and local law enforcement; and
- 6 (J) Federal, State and local prosecutors.

7 (4) *CRITERIA FOR DESIGNATION.*—*In consid-*
 8 *ering an area for designation as a high intensity*
 9 *interstate gang activity area under this section, the*
 10 *Attorney General shall consider—*

11 (A) *the current and predicted levels of gang*
 12 *crime activity in the area;*

13 (B) *the extent to which violent crime in the*
 14 *area appears to be related to criminal street*
 15 *gang activity, such as drug trafficking, murder,*
 16 *robbery, assaults, carjacking, arson, kidnapping,*
 17 *extortion, and other criminal activity;*

18 (C) *the extent to which State and local law*
 19 *enforcement agencies have committed resources*
 20 *to—*

21 (i) *respond to the gang crime problem;*

22 *and*

23 (ii) *participate in a gang enforcement*
 24 *team;*

1 (D) *the extent to which a significant in-*
 2 *crease in the allocation of Federal resources*
 3 *would enhance local response to the gang crime*
 4 *activities in the area; and*

5 (E) *any other criteria that the Attorney*
 6 *General considers to be appropriate.*

7 (c) *AUTHORIZATION OF APPROPRIATIONS.—*

8 (1) *IN GENERAL.—There are authorized to be ap-*
 9 *propriated \$100,000,000 for each of the fiscal years*
 10 *2005 to 2009 to carry out this section.*

11 (2) *USE OF FUNDS.—Of amounts made available*
 12 *under paragraph (1) in each fiscal year—*

13 (A) *50 percent shall be used to carry out*
 14 *subsection (b)(2); and*

15 (B) *50 percent shall be used to make grants*
 16 *available for community-based programs to pro-*
 17 *vide crime prevention, research, and intervention*
 18 *services that are designed for gang members and*
 19 *at-risk youth in areas designated pursuant to*
 20 *this section as high intensity interstate gang ac-*
 21 *tivity areas.*

22 (3) *REPORTING REQUIREMENTS.—By February*
 23 *1st of each year, the Attorney General shall provide*
 24 *a report to Congress which describes, for each des-*
 25 *ignated high intensity interstate gang activity area—*

1 (A) the specific long-term and short-term
2 goals and objectives;

3 (B) the measurements used to evaluate the
4 performance of the high intensity interstate gang
5 activity area in achieving the long-term and
6 short-term goals;

7 (C) the age, composition, and membership
8 of “gangs”;

9 (D) the number and nature of crimes com-
10 mitted by “gangs”; and

11 (E) the definition of the term “gang” used
12 to compile this report.

13 **SEC. 111. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**
14 **HOODS INITIATIVE TO IMPROVE ENFORCE-**
15 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**
16 **GANGS.**

17 (a) *IN GENERAL.*—While maintaining the focus of
18 Project Safe Neighborhoods as a comprehensive, strategic
19 approach to reducing gun violence in America, the Attorney
20 General is authorized to expand the Project Safe Neighbor-
21 hoods program to require each United States attorney to—

22 (1) identify, investigate, and prosecute signifi-
23 cant criminal street gangs operating within their dis-
24 trict;

1 (2) *coordinate the identification, investigation,*
 2 *and prosecution of criminal street gangs among Fed-*
 3 *eral, State, and local law enforcement agencies; and*
 4 (3) *coordinate and establish criminal street gang*
 5 *enforcement teams, established under section 110(b),*
 6 *in high intensity interstate gang activity areas with-*
 7 *in a United States attorney's district.*

8 (b) *ADDITIONAL STAFF FOR PROJECT SAFE NEIGH-*
 9 *BORHOODS.—*

10 (1) *IN GENERAL.—The Attorney General may*
 11 *hire Assistant United States attorneys, non-attorney*
 12 *coordinators, or paralegals to carry out the provisions*
 13 *of this section.*

14 (2) *AUTHORIZATION OF APPROPRIATIONS.—*
 15 *There are authorized to be appropriated \$7,500,000*
 16 *for each of the fiscal years 2005 through 2009 to*
 17 *carry out this section.*

18 **SEC. 112. ADDITIONAL RESOURCES NEEDED BY THE FED-**
 19 **ERAL BUREAU OF INVESTIGATION TO INVES-**
 20 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**
 21 **STREET GANGS.**

22 (a) *RESPONSIBILITIES OF ATTORNEY GENERAL.—The*
 23 *Attorney General is authorized to require the Federal Bu-*
 24 *reau of Investigation to—*

1 (1) *increase funding for the Safe Streets Pro-*
 2 *gram; and*

3 (2) *support the criminal street gang enforcement*
 4 *teams, established under section 110(b), in designated*
 5 *high intensity interstate gang activity areas.*

6 (b) *AUTHORIZATION OF APPROPRIATIONS.—*

7 (1) *IN GENERAL.—In addition to amounts other-*
 8 *wise authorized, there are authorized to be appro-*
 9 *priated to the Attorney General \$5,000,000 for each*
 10 *of the fiscal years 2005 through 2009 to carry out the*
 11 *Safe Streets Program.*

12 (2) *AVAILABILITY.—Any amounts appropriated*
 13 *pursuant to paragraph (1) shall remain available*
 14 *until expended.*

15 **SEC. 113. GRANTS TO PROSECUTORS AND LAW ENFORCE-**
 16 **MENT TO COMBAT VIOLENT CRIME AND TO**
 17 **PROTECT WITNESSES AND VICTIMS OF**
 18 **CRIMES.**

19 (a) *IN GENERAL.—Section 31702 of the Violent Crime*
 20 *Control and Law Enforcement Act of 1994 (42 U.S.C.*
 21 *13862) is amended—*

22 (1) *in paragraph (3), by striking “and” at the*
 23 *end;*

24 (2) *in paragraph (4), by striking the period at*
 25 *the end and inserting a semicolon; and*

1 (3) *by adding at the end the following:*

2 “(5) *to hire additional prosecutors to—*

3 “(A) *allow more cases to be prosecuted; and*

4 “(B) *reduce backlogs;*

5 “(6) *to fund technology, equipment, and training*

6 *for prosecutors and law enforcement in order to in-*

7 *crease accurate identification of gang members and*

8 *violent offenders, and to maintain databases with*

9 *such information to facilitate coordination among*

10 *law enforcement and prosecutors; and*

11 “(7) *to create and expand witness and victim*

12 *protection programs to prevent threats, intimidation,*

13 *and retaliation against victims of, and witnesses to,*

14 *violent crimes.”.*

15 (b) *AUTHORIZATION OF APPROPRIATIONS.—Section*

16 *31707 of the Violent Crime Control and Law Enforcement*

17 *Act of 1994 (42 U.S.C. 13867) is amended to read as fol-*

18 *lows:*

19 **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

20 “(a) *IN GENERAL.—There are authorized to be appro-*

21 *priated \$20,000,000 for each of the fiscal years 2005*

22 *through 2009 to carry out this subtitle.*

23 “(b) *USE OF FUNDS.—Of the amounts made available*

24 *under subsection (a), in each fiscal year 60 percent shall*

25 *be used to carry out section 31702(7) to create and expand*

1 *witness and victim protection programs to prevent threats,*
 2 *intimidation, and retaliation against victims of, and wit-*
 3 *nesses to, violent crimes.”.*

4 **SEC. 114. REAUTHORIZE THE GANG RESISTANCE EDU-**
 5 **CATION AND TRAINING PROJECTS PROGRAM.**

6 *Section 32401(b) of the Violent Crime Control Act of*
 7 *1994 (42 U.S.C. 13921(b)) is amended by striking para-*
 8 *graphs (1) through (6) and inserting the following:*

- 9 “(1) \$20,000,000 for fiscal year 2005;
 10 “(2) \$20,000,000 for fiscal year 2006;
 11 “(3) \$20,000,000 for fiscal year 2007;
 12 “(4) \$20,000,000 for fiscal year 2008; and
 13 “(5) \$20,000,000 for fiscal year 2009.”.

14 **TITLE II—VIOLENT CRIME RE-**
 15 **FORMS NEEDED TO DETER**
 16 **AND PREVENT ILLEGAL GANG**
 17 **CRIME**

18 **SEC. 201. MULTIPLE INTERSTATE MURDER.**

19 *Chapter 51 of title 18, United States Code, is amended*
 20 *by adding at the end of the new section:*

21 **“§ 1123. Multiple murders in furtherance of common**
 22 **scheme of purpose**

23 “(a) *IN GENERAL.*—Whoever, having committed mur-
 24 *der in violation of the laws of any State or the United*
 25 *States, moves or travels in interstate or foreign commerce*

1 *with the intent to commit one or more murders in violation*
 2 *of the laws of any State or the United States, and thereafter*
 3 *commits one or more murders in violation of the laws of*
 4 *any State or the United States in furtherance of a common*
 5 *scheme or purpose, or who conspires to do so—*

6 “(1) *shall be fined under this title, imprisoned*
 7 *for not more than 30 years, or both, for each murder;*
 8 *and*

9 “(2) *if death results, may be fined not more than*
 10 *\$250,000 under this title, and shall be punished by*
 11 *death or imprisoned for any term of years or for life*
 12 *for each murder.*

13 “(b) *DEFINITION.—The term ‘State’ means each of the*
 14 *several States of the United States, the District of Columbia,*
 15 *and any commonwealth, territory, or possession of the*
 16 *United States.”.*

17 **SEC. 202. EXPANSION OF REBUTTABLE PRESUMPTION**
 18 **AGAINST RELEASE OF PERSONS CHARGED**
 19 **WITH FIREARMS OFFENSES.**

20 *Section 3142 of title 18, United States Code, is amend-*
 21 *ed—*

22 (1) *in subsection (e), in the matter following*
 23 *paragraph (3)—*

24 (A) *by inserting “an offense under section*
 25 *922(g)(1) where the underlying conviction is a*

1 *serious drug offense as defined in section*
 2 *924(e)(2)(A) of title 18, United States Code, for*
 3 *which a period of not more than 10 years has*
 4 *elapsed since the date of the conviction or the re-*
 5 *lease of the person from imprisonment, whichever*
 6 *is later, or is a serious violent felony as defined*
 7 *in section 3559(c)(2)(F) of title 18, United*
 8 *States Code,” after “that the person committed”;*
 9 *and*

10 *(B) by inserting “or” before “the Mari-*
 11 *time”;*

12 *(2) in subsection (f)(1)—*

13 *(A) in subparagraph (C), by striking “or”*
 14 *at the end; and*

15 *(B) by adding at the end the following:*

16 *“(E) an offense under section 922(g); or”;*

17 *and*

18 *(3) in subsection (g), by amending paragraph*
 19 *(1) to read as follows:*

20 *“(1) the nature and circumstances of the offense*
 21 *charged, including whether the offense is a crime of*
 22 *violence, or involves a drug, firearm, explosive, or de-*
 23 *structive devise;”.*

1 **SEC. 203. VENUE IN CAPITAL CASES.**

2 *Section 3235 of title 18, United States Code, is amend-*
 3 *ed to read as follows:*

4 **“§ 3235. Venue in capital cases**

5 “(a) *The trial for any offense punishable by death shall*
 6 *be held in the district where the offense was committed or*
 7 *in any district in which the offense began, continued, or*
 8 *was completed.*

9 “(b) *If the offense, or related conduct, under subsection*
 10 *(a) involves activities which affect interstate or foreign com-*
 11 *merce, or the importation of an object or person into the*
 12 *United States, such offense may be prosecuted in any dis-*
 13 *trict in which those activities occurred.”.*

14 **SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

15 (a) *IN GENERAL.*—Chapter 214 of title 18, United
 16 States Code, is amended by adding at the end the following:

17 **“§ 3297. Violent crime offenses**

18 “*Except as otherwise expressly provided by law, no*
 19 *person shall be prosecuted, tried, or punished for any non-*
 20 *capital felony, crime of violence (as defined in section 16),*
 21 *including any racketeering activity or gang crime which*
 22 *involves any violent crime, unless the indictment is found*
 23 *or the information is instituted by the later of—*

24 “(1) *10 years after the date on which the alleged*
 25 *violation occurred;*

1 “(2) 10 years after the date on which the con-
2 tinuing offense was completed; or

3 “(3) 8 years after the date on which the alleged
4 violation was first discovered.”.

5 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
6 *the beginning of chapter 214 of title 18, United States Code,*
7 *is amended by adding at the end the following:*

 “3296. *Violent crime offenses.*”.

8 **SEC. 205. PREDICATE CRIMES FOR AUTHORIZATION OF**
9 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**
10 **TRONIC COMMUNICATIONS.**

11 *Section 2516(1) of title 18, United States Code, is*
12 *amended—*

13 (1) *in paragraph (q), by striking “or.”;*

14 (2) *by redesignating paragraph (r) as paragraph*
15 *(u); and*

16 (3) *by inserting after paragraph (q) the fol-*
17 *lowing:*

18 “(r) *any violation of section 424 of the Con-*
19 *trolled Substances Act (relating to murder and other*
20 *violent crimes in furtherance of a drug trafficking*
21 *crime);*

22 “(s) *any violation of 1123 of title 18, United*
23 *States Code (relating to multiple interstate murder);*

24 “(t) *any violation of section 521, 522, or 523*
25 *(relating to criminal street gangs); or”.*

1 **SEC. 206. CLARIFICATION TO HEARSAY EXCEPTION FOR**
 2 **FORFEITURE BY WRONGDOING.**

3 *Rule 804(b)(6) of the Federal Rules of Evidence is*
 4 *amended to read as follows:*

5 “(6) *FORFEITURE BY WRONGDOING. A statement*
 6 *offered against a party that has engaged, acquiesced,*
 7 *or conspired, in wrongdoing that was intended to,*
 8 *and did, procure the unavailability of the declarant*
 9 *as a witness.”.*

10 **SEC. 207. CLARIFICATION OF VENUE FOR RETALIATION**
 11 **AGAINST A WITNESS.**

12 *Section 1513 of title 18, United States Code, is amend-*
 13 *ed by—*

14 (1) *redesignating subsection (e) beginning with*
 15 *“Whoever conspires” as subsection (f); and*

16 (2) *adding at the end the following:*

17 “(g) *A prosecution under this section may be brought*
 18 *in the district in which the official proceeding (whether or*
 19 *not pending, about to be instituted or was completed) was*
 20 *intended to be affected or was completed, or in which the*
 21 *conduct constituting the alleged offense occurred.”.*

22 **SEC. 208. AMENDMENT OF SENTENCING GUIDELINES RE-**
 23 **LATING TO CERTAIN GANG AND VIOLENT**
 24 **CRIMES.**

25 (a) *DIRECTIVE TO THE UNITED STATES SENTENCING*
 26 *COMMISSION.—Pursuant to its authority under section*

1 994(p) of title 28, United States Code, and in accordance
2 with this section, the United States Sentencing Commission
3 shall review and, if appropriate, amend its guidelines and
4 its policy statements to conform to the provisions of title
5 I and this title.

6 (b) *REQUIREMENTS.*—In carrying out this section, the
7 Sentencing Commission shall—

8 (1) establish new guidelines and policy state-
9 ments, as warranted, in order to implement new or
10 revised criminal offenses created under this title;

11 (2) ensure that the sentencing guidelines and
12 policy statements reflect the serious nature of the of-
13 fenses and the penalties set forth in this title, the
14 growing incidence of serious gang and violent crimes,
15 and the need to modify the sentencing guidelines and
16 policy statements to deter, prevent, and punish such
17 offenses;

18 (3) consider the extent to which the guidelines
19 and policy statements adequately address—

20 (A) whether the guideline offense levels and
21 enhancements for gang and violent crimes—

22 (i) are sufficient to deter and punish
23 such offenses; and

1 (ii) are adequate in view of the statu-
2 tory increases in penalties contained in the
3 Act; and

4 (B) whether any existing or new specific of-
5 fense characteristics should be added to reflect
6 congressional intent to increase gang and violent
7 crime penalties, punish offenders, and deter gang
8 and violent crime;

9 (4) assure reasonable consistency with other rel-
10 evant directives and with other sentencing guidelines;

11 (5) account for any additional aggravating or
12 mitigating circumstances that might justify excep-
13 tions to the generally applicable sentencing ranges;

14 (6) make any necessary conforming changes to
15 the sentencing guidelines; and

16 (7) assure that the guidelines adequately meet
17 the purposes of sentencing under section 3553(a)(2) of
18 title 18, United States Code.

19 **SEC. 209. INCREASED PENALTIES FOR CRIMINAL USE OF**
20 **FIREARMS IN CRIMES OF VIOLENCE AND**
21 **DRUG TRAFFICKING.**

22 (a) *IN GENERAL.*—Section 924(c)(1)(A) of title 18,
23 *United States Code*, is amended—

24 (1) by striking “shall” and inserting “or con-
25 spires to commit any of the above acts, shall, for each

1 *instance in which the firearm is used, carried, or pos-*
 2 *sessed”;*

3 *(2) in clause (i), by striking “5 years” and in-*
 4 *serting “7 years”; and*

5 *(3) by striking clause (ii).*

6 **(b) CONFORMING AMENDMENT.**—*Section 924 of title*
 7 *18, United States Code, is amended—*

8 *(1) in subsection (c), by striking paragraph (4);*
 9 *and*

10 *(2) by striking subsection (o).*

11 **SEC. 210. POSSESSION OF FIREARMS BY DANGEROUS FEL-**
 12 **ONS.**

13 **(a) IN GENERAL.**—*Section 924(e) of title 18, United*
 14 *States Code, is amended to read as follows:*

15 *“(e)(1) In the case of a person who violates section*
 16 *922(g) of this title and has previously been convicted by*
 17 *any court referred to in section 922(g)(1) for a violent fel-*
 18 *ony or a serious drug offense shall—*

19 *“(A) in the case of 1 such prior conviction, where*
 20 *a period of not more than 10 years has elapsed since*
 21 *the date of conviction or release of the person from*
 22 *imprisonment for that conviction, be subject to im-*
 23 *prisonment for not more than 15 years, a fine under*
 24 *this title, or both;*

1 “(B) in the case of 2 such prior convictions, com-
 2 mitted on occasions different from one another, and
 3 where a period of not more than 10 years has elapsed
 4 since the date of conviction or release of the person
 5 from imprisonment for that conviction, be subject to
 6 imprisonment for not more than 20 years, a fine
 7 under this title, or both; and

8 “(C) in the case of 3 such prior convictions, com-
 9 mitted on occasions different from one another, be
 10 subject to imprisonment for not less than 15 years, a
 11 fine under this title, or both, and notwithstanding
 12 any other provision of law, the court shall not sus-
 13 pend the sentence of, or grant a probationary sentence
 14 to, such person with respect to the conviction under
 15 section 922(g).

16 “(2) As used in this subsection—

17 “(A) the term ‘serious drug offense’ means—

18 “(i) an offense under the Controlled Sub-
 19 stances Act (21 U.S.C. 801 et seq.), the Con-
 20 trolled Substances Import and Export Act (21
 21 U.S.C. 951 et seq.), or the Maritime Drug Law
 22 Enforcement Act (46 U.S.C. App. 1901 et seq.),
 23 punishable by a maximum term of imprison-
 24 ment of not less than 10 years; or

1 “(ii) an offense under State law, involving
2 manufacturing, distributing, or possessing with
3 intent to manufacture or distribute, a controlled
4 substance (as defined in section 102 of the Con-
5 trolled Substances Act (21 U.S.C. 802)), punish-
6 able by a maximum term of imprisonment of not
7 less than 10 years;

8 “(B) the term ‘violent felony’ means any crime
9 punishable by a term of imprisonment exceeding 1
10 year, or any act of juvenile delinquency involving the
11 use or carrying of a firearm, knife, or destructive de-
12 vice that would be punishable by a maximum term of
13 imprisonment for such term if committed by an
14 adult, that—

15 “(i) has, as an element of the crime or act,
16 the use, attempted use, or threatened use of phys-
17 ical force against the person of another; or

18 “(ii) is burglary, arson, or extortion, in-
19 volves the use of explosives, or otherwise involves
20 conduct that presents a serious potential risk of
21 physical injury to another; and

22 “(C) the term ‘conviction’ includes a finding that
23 a person has committed an act of juvenile delin-
24 quency involving a violent felony.”.

1 (b) *AMENDMENT TO SENTENCING GUIDELINES.*—Pur-
 2 suant to its authority under section 994(p) of title 28,
 3 United States Code, the United States Sentencing Commis-
 4 sion shall amend the Federal Sentencing Guidelines to pro-
 5 vide for an appropriate increase in the offense level for vio-
 6 lations of section 922(g) of title 18, United States Code, in
 7 accordance with section 924(e) of such title 18, as amended
 8 by subsection (a).

9 **SEC. 211. CONFORMING AMENDMENT.**

10 The matter before paragraph (1) in section 922(d) of
 11 title 18, United States Code, is amended by inserting “,
 12 transfer,” after “sell”.

13 **TITLE III—JUVENILE CRIME RE-**
 14 **FORM FOR VIOLENT OFFEND-**
 15 **ERS**

16 **SEC. 301. TREATMENT OF FEDERAL JUVENILE OFFENDERS.**

17 (a) *IN GENERAL.*—Section 5032 of title 18, United
 18 States Code, is amended to read as follows:

19 **“§ 5032. Delinquency proceedings in district courts;**
 20 **juveniles tried as adults; transfer for**
 21 **criminal prosecution**

22 **“(a) DELINQUENCY PROCEEDINGS IN DISTRICT**
 23 **COURTS.—**

24 **“(1) IN GENERAL.**—A juvenile alleged to have
 25 committed an act of juvenile delinquency, other than

1 *a violation of law committed within the special mari-*
2 *time and territorial jurisdiction of the United States*
3 *for which the maximum authorized term of imprison-*
4 *ment does not exceed 6 months, shall not be proceeded*
5 *against in any court of the United States unless the*
6 *Attorney General, after investigation, certifies to the*
7 *appropriate district court of the United States that—*

8 *“(A) the juvenile court or other appropriate*
9 *court of a State does not have jurisdiction or re-*
10 *fuses to assume jurisdiction over that juvenile*
11 *with respect to such alleged act of juvenile delin-*
12 *quency;*

13 *“(B) the State does not have available pro-*
14 *grams and services adequate for the needs of ju-*
15 *veniles; or*

16 *“(C) the offense charged is a crime of vio-*
17 *lence that is a felony or an offense described in*
18 *section 401 of the Controlled Substances Act (21*
19 *U.S.C. 841), section 1002(a), 1003, 1005, 1009,*
20 *or 1010(b) (1), (2), or (3) of the Controlled Sub-*
21 *stances Import and Export Act (21 U.S.C.*
22 *952(a), 953, 955, 959, 960(b) (1), (2), (3)), sec-*
23 *tion 922(x), or section 924 (b), (g), or (h) of this*
24 *title, and there is a substantial Federal interest*

1 *in the case or the offense to warrant the exercise*
 2 *of Federal jurisdiction.*

3 “(2) *FAILURE TO CERTIFY.*—*If the Attorney*
 4 *General does not certify under paragraph (1), the ju-*
 5 *venile shall be surrendered to the appropriate legal*
 6 *authorities of such State.*

7 “(3) *FEDERAL PROCEEDINGS.*—*If an alleged ju-*
 8 *venile delinquent is not surrendered to the authorities*
 9 *of a State pursuant to this section, any proceedings*
 10 *against him shall be in an appropriate district court*
 11 *of the United States. For such purposes, the court*
 12 *may be convened at any time and place within the*
 13 *district, in chambers or otherwise. The Attorney Gen-*
 14 *eral shall proceed by information or as authorized*
 15 *under section 3401(g) of this title, and no criminal*
 16 *prosecution shall be instituted for the alleged act of*
 17 *juvenile delinquency except as provided below.*

18 “(b) *TRANSFER FOR FEDERAL CRIMINAL PROSECU-*
 19 *TION.*—

20 “(1) *IN GENERAL.*—*A juvenile who is alleged to*
 21 *have committed an act of juvenile delinquency and*
 22 *who is not surrendered to State authorities shall be*
 23 *proceeded against under this chapter unless—*

1 “(A) the juvenile has requested in writing
2 upon advice of counsel to be proceeded against as
3 an adult;

4 “(B) with respect to a juvenile 15 years and
5 older alleged to have committed an act after his
6 fifteenth birthday which if committed by an
7 adult would be a felony that is a crime of vio-
8 lence or an offense described in section 401 of the
9 Controlled Substances Act (21 U.S.C. 841), or
10 section 1002(a), 1005, or 1009 of the Controlled
11 Substances Import and Export Act (21 U.S.C.
12 952(a), 955, 959), or section 922(x) of this title,
13 or in section 924 (b), (g), or (h) of this title, the
14 Attorney General makes a motion to transfer the
15 criminal prosecution on the basis of the alleged
16 act in the appropriate district court of the
17 United States and the court finds, after hearing,
18 such transfer would be in the interest of justice
19 as provided in paragraph (2); or

20 “(C) with respect to a juvenile 13 years and
21 older alleged to have committed an act after his
22 thirteenth birthday which if committed by an
23 adult would be a felony that is the crime of vio-
24 lence under section 113 (a), (b), (c), 1111, 1113,
25 or, if the juvenile possessed a firearm during the

1 *offense, an offense under section 2111, 2113,*
2 *2241(a), or 2241(c), the Attorney General makes*
3 *a motion to transfer the criminal prosecution on*
4 *the basis of the alleged act in the appropriate*
5 *district court of the United States and the court*
6 *finds, after hearing, such transfer would be in*
7 *the interest of justice as provided in paragraph*
8 *(2).*

9 *Notwithstanding sections 1152 and 1153, no person*
10 *subject to the criminal jurisdiction of an Indian trib-*
11 *al government shall be subject to subparagraph (C)*
12 *for any offense the Federal jurisdiction for which is*
13 *predicated solely on Indian country (as defined in*
14 *section 1151), and which has occurred within the*
15 *boundaries of such Indian country, unless the gov-*
16 *erning body of the tribe has elected that the preceding*
17 *sentence have effect over land and persons subject to*
18 *its criminal jurisdiction.*

19 “(2) *FACTORS.—*

20 “(A) *IN GENERAL.—Evidence of the fol-*
21 *lowing factors shall be considered, and findings*
22 *with regard to each factor shall be made in the*
23 *record, in assessing whether a transfer under*
24 *subparagraph (B) or (C) of paragraph (1), and*

1 paragraph (4) of subsection (d), would be in the
2 interest of justice:

3 “(i) The age and social background of
4 the juvenile.

5 “(ii) The nature of the alleged offense,
6 including the extent to which the juvenile
7 played a leadership role in an organization,
8 or otherwise influenced other persons to take
9 part in criminal activities.

10 “(iii) Whether prosecution of the juve-
11 nile as an adult would protect public safety.

12 “(iv) The extent and nature of the ju-
13 venile’s prior delinquency record.

14 “(v) The juvenile’s present intellectual
15 development and psychological maturity.

16 “(vi) The nature of past treatment ef-
17 forts and the juvenile’s response to such ef-
18 forts.

19 “(vii) The availability of programs de-
20 signed to treat the juvenile’s behavioral
21 problems.

22 “(B) NATURE OF THE OFFENSE.—In con-
23 sidering the nature of the offense, as required by
24 this paragraph, the court shall consider the ex-
25 tent to which the juvenile played a leadership

1 *role in an organization, or otherwise influenced*
 2 *other persons to take part in criminal activities,*
 3 *involving the use or distribution of controlled*
 4 *substances or firearms. Such a factor, if found to*
 5 *exist, shall weigh in favor of a transfer to adult*
 6 *status, but the absence of this factor shall not*
 7 *preclude such a transfer.*

8 “(C) NOTICE.—*Reasonable notice of the*
 9 *transfer hearing under subparagraph (B) or (C)*
 10 *of paragraph (1) shall be given to the juvenile,*
 11 *the juvenile’s parents, guardian, or custodian*
 12 *and to the juvenile’s counsel. The juvenile shall*
 13 *be assisted by counsel during the transfer hear-*
 14 *ing, and at every other critical stage of the pro-*
 15 *ceedings.*

16 “(c) MANDATORY TRANSFER OF JUVENILE 16 OR
 17 OLDER.—*A juvenile who is alleged to have committed an*
 18 *act on or after his sixteenth birthday, which if committed*
 19 *by an adult would be a felony offense, that has an element*
 20 *thereof the use, attempted use, or threatened use of physical*
 21 *force against the person of another, or that, by its very na-*
 22 *ture, involves a substantial risk that physical force against*
 23 *the person of another, may be used in committing the of-*
 24 *fense or would be an offense described in section 32, 81,*
 25 *or 2275 or subsection (d), (e), (f), (h), or (i) of section 844*

1 *of this title, subsection (d) or (e) or subparagraphs (A), (B),*
 2 *(C), (D), or (E) of subsection (b)(1) of section 401 of the*
 3 *Controlled Substances Act, or section 1002(a), 1003, or*
 4 *1009, or paragraphs (1), (2), or (3) of section 1010(b) of*
 5 *the Controlled Substances Import and Export Act (21*
 6 *U.S.C. 952(a), 953, 959, 960(b) (1), (2), and (3)), and who*
 7 *has previously been found guilty of an act which if com-*
 8 *mitted by an adult would have been one of the offenses set*
 9 *forth in this subsection or subsection (b), or an offense in*
 10 *violation of a State felony statute that would have been such*
 11 *an offense if a circumstance giving rise to Federal jurisdic-*
 12 *tion had existed, shall be transferred, upon notification by*
 13 *the United States, to the appropriate district court of the*
 14 *United States for criminal prosecution.*

15 “(d) *SIXTEEN AND SEVENTEEN YEAR OLDS CHARGED*
 16 *WITH THE MOST SERIOUS VIOLENT FELONIES.*—

17 “(1) *IN GENERAL.*—*Notwithstanding any other*
 18 *provision of law, a juvenile may be prosecuted as an*
 19 *adult if the juvenile is alleged to have committed, con-*
 20 *spired, solicited or attempted to commit, on or after*
 21 *the day the juvenile attains the age of 16 any offense*
 22 *involving—*

23 “(A) *murder;*

24 “(B) *manslaughter;*

25 “(C) *assault with intent to commit murder;*

1 “(D) sexual assault (which means any of-
 2 fense that involves conduct that would violate
 3 chapter 109A if the conduct occurred in the spe-
 4 cial maritime and territorial jurisdiction);

5 “(E) robbery (as described in section 2111,
 6 2113, or 2118);

7 “(F) carjacking with a dangerous weapon;

8 “(G) extortion;

9 “(H) arson;

10 “(I) firearms use;

11 “(J) firearms possession (as described in
 12 section 924(c);

13 “(K) drive-by shooting;

14 “(L) kidnapping;

15 “(M) maiming;

16 “(N) assault resulting in serious bodily in-
 17 jury; or

18 “(O) obstruction of justice (as described in
 19 1512(a)(1)) on or after the day the juvenile at-
 20 tains the age of 16.

21 “(2) OTHER OFFENSES.—In a prosecution under
 22 this subsection the juvenile may be prosecuted and
 23 convicted as an adult for any other offense which is
 24 properly joined under the Federal Rules of Criminal

1 *Procedure, and may also be convicted as an adult of*
2 *a lesser included offense.*

3 “(3) *REVIEWABILITY.*—*Except as otherwise pro-*
4 *vided by this subsection, a determination to approve*
5 *or not to approve, or to institute or not to institute,*
6 *a prosecution under this subsection shall not be re-*
7 *viewable in any court.*

8 “(4) *PROSECUTION.*—(A) *In any prosecution of*
9 *a juvenile under this subsection, upon motion of the*
10 *defendant, the court in which the criminal charges*
11 *have been filed shall after a hearing determine wheth-*
12 *er to issue an order that the defendant should be*
13 *transferred to juvenile status.*

14 “(B) *A motion by a defendant under this para-*
15 *graph shall not be considered unless filed no later*
16 *than 30 days after the date on which the defendant*
17 *initially appears through counsel or expressly waives*
18 *the right to counsel and elects to proceed pro se.*

19 “(C) *The court shall not order the transfer of a*
20 *defendant to juvenile status under this paragraph un-*
21 *less the defendant establishes by clear and convincing*
22 *evidence that removal to juvenile status would be in*
23 *the interest of justice. In making a determination*
24 *under this paragraph, the court shall consider the fac-*
25 *tors specified in subsection (b)(2) of this section.*

1 “(5) *ORDER.*—*An order of the court made in*
2 *ruling on a motion by a defendant to transfer a de-*
3 *fendant to juvenile status under this subsection shall*
4 *not be a final order for the purpose of enabling an*
5 *appeal, except that an appeal by the United States*
6 *shall lie to a court of appeals pursuant to section*
7 *3731 of this title from an order of a district court re-*
8 *moving a defendant to juvenile status. Upon receipt*
9 *of a notice of appeal of an order under this para-*
10 *graph, a court of appeals shall hear and determine*
11 *the appeal on an expedited basis. The court of appeals*
12 *shall give due regard to the opportunity of the district*
13 *court to judge the credibility of the witnesses, and*
14 *shall accept the findings of fact of the district court*
15 *unless they are clearly erroneous, and the court of ap-*
16 *peals shall review de novo the district court’s applica-*
17 *tion of the law to the facts.*

18 “(e) *SIXTEEN AND SEVENTEEN YEAR OLDS CHARGED*
19 *WITH OTHER SERIOUS VIOLENT FELONIES.*—

20 “(1) *IN GENERAL.*—*Except as provided by sub-*
21 *section (d), a juvenile may be prosecuted as an adult*
22 *if the juvenile is alleged to have committed an act on*
23 *or after the day the juvenile attains the age of 16*
24 *which is committed by an adult would be a serious*

1 *violent felony as described in paragraphs (2) and (3)*
 2 *of section 3559(a).*

3 “(2) *OTHER OFFENSES.*—*In a prosecution under*
 4 *this subsection the juvenile may be prosecuted and*
 5 *convicted as an adult for any other offense which is*
 6 *properly joined under the Federal Rules of Criminal*
 7 *Procedure, and may also be convicted as an adult of*
 8 *a lesser included offense.*

9 “(3) *REVIEWABILITY.*—*Except as otherwise pro-*
 10 *vided by this subsection, a determination to approve*
 11 *or not to approve, or to institute or not to institute,*
 12 *a prosecution under this subsection shall not be re-*
 13 *viewable in any court.*

14 “(4) *PROSECUTION.*—(A) *In any prosecution of*
 15 *a juvenile under this subsection, upon motion of the*
 16 *defendant, the court in which the criminal charges*
 17 *have been filed shall after a hearing determine wheth-*
 18 *er to issue an order that the defendant should be*
 19 *transferred to juvenile status.*

20 “(B) *A motion by a defendant under this para-*
 21 *graph shall not be considered unless filed no later*
 22 *than 30 days after the date on which the defendant*
 23 *initially appears through counsel or expressly waives*
 24 *the right to counsel and elects to proceed pro se.*

1 “(C) *The court shall not order the transfer of a*
 2 *defendant to juvenile status under this paragraph un-*
 3 *less the defendant establishes by clear and convincing*
 4 *evidence that removal to juvenile status would be in*
 5 *the interest of justice. In making a determination*
 6 *under this paragraph, the court shall consider the fac-*
 7 *tors specified in subsection (b)(2) of this section.*

8 “(5) *ORDER.—An order of the court made in*
 9 *ruling on a motion by a defendant to transfer a de-*
 10 *fendant to juvenile status under this subsection shall*
 11 *be a final order for the purpose of enabling an ap-*
 12 *peal. Upon receipt of a notice of appeal of an order*
 13 *under this paragraph, a court of appeals shall hear*
 14 *and determine the appeal on an expedited basis. The*
 15 *court of appeals shall give due regard to the oppor-*
 16 *tunity of the district court to judge the credibility of*
 17 *the witnesses, and shall accept the findings of fact of*
 18 *the district court unless they are clearly erroneous,*
 19 *and the court of appeals shall review de novo the dis-*
 20 *trict court’s application of the law to the facts.*

21 “(f) *PROCEEDINGS.—*

22 “(1) *SUBSEQUENT PROCEEDING BARRED.—Once*
 23 *a juvenile has entered a plea of guilty or the pro-*
 24 *ceeding has reached the stage that evidence has begun*
 25 *to be taken with respect to a crime or an alleged act*

1 *of juvenile delinquency subsequent criminal prosecu-*
2 *tion or juvenile proceedings based upon such alleged*
3 *act of delinquency shall be barred.*

4 “(2) *STATEMENTS.*—*Statements made by a juve-*
5 *nile prior to or during a transfer hearing under this*
6 *section shall not be admissible at subsequent criminal*
7 *prosecutions except for impeachment purposes or in a*
8 *prosecution for perjury or making a false statement.*

9 “(3) *FURTHER PROCEEDINGS.*—*Whenever a juve-*
10 *nile transferred to district court under subsection (b)*
11 *or (c) is not convicted of the crime upon which the*
12 *transfer was based or another crime which would*
13 *have warranted transfer had the juvenile been ini-*
14 *tially charged with that crime, further proceedings*
15 *concerning the juvenile shall be conducted pursuant to*
16 *the provisions of this chapter.*

17 “(4) *RECEIPT OF RECORDS.*—*A juvenile shall*
18 *not be transferred to adult prosecution under sub-*
19 *section (b) nor shall a hearing be held under section*
20 *5037 (disposition after a finding of juvenile delin-*
21 *quency) until any prior juvenile court records of such*
22 *juvenile have been received by the court, or the clerk*
23 *of the juvenile court has certified in writing that the*
24 *juvenile has no prior record, or that the juvenile’s*
25 *record is unavailable and why it is unavailable.*

1 “(5) *SPECIFIC ACTS DESCRIBED.*—Whenever a
 2 juvenile is adjudged delinquent pursuant to the provi-
 3 sions of this chapter, the specific acts which the juve-
 4 nile has been found to have committed shall be de-
 5 scribed as part of the official record of the proceedings
 6 and part of the juvenile’s official record.

7 “(g) *STATE.*—For purposes of this section, the term
 8 ‘State’ includes a State of the United States, the District
 9 of Columbia, and any commonwealth, territory, or posses-
 10 sion of the United States.”.

11 (b) *CONFORMING AMENDMENTS.*—The analysis for
 12 chapter 403 of title 18, United States Code, is amended by
 13 striking the item relating to section 5032 and inserting the
 14 following:

 “5032. Delinquency proceedings in district courts; juveniles tried as adults; trans-
 fer for criminal prosecution.”.

15 **SEC. 302. NOTIFICATION AFTER ARREST.**

16 Section 5033 of title 18, United States Code, is amend-
 17 ed in the first sentence, by striking “immediately notify the
 18 Attorney General and” and inserting “immediately, or as
 19 soon as practicable thereafter, notify the Attorney General
 20 and shall promptly take reasonable steps to notify”.

21 **SEC. 303. RELEASE AND DETENTION PRIOR TO DISPOS-**
 22 **ITION.**

23 (a) *DUTIES OF MAGISTRATE JUDGE.*—Section 5034 of
 24 title 18, United States Code, is amended—

1 (1) *in the first undesignated paragraph, by*
 2 *striking “The magistrate judge shall insure” and in-*
 3 *serting the following:*

4 “(a) *IN GENERAL.—*

5 “(1) *REPRESENTATION BY COUNSEL.—The mag-*
 6 *istrate judge shall ensure”;*

7 (2) *in the second undesignated paragraph, by*
 8 *striking “The magistrate judge may appoint” and in-*
 9 *serting the following:*

10 “(2) *GUARDIAN AD LITEM.—The magistrate*
 11 *judge may appoint”;*

12 (3) *in the third undesignated paragraph, by*
 13 *striking “If the juvenile” and inserting the following:*

14 “(b) *RELEASE PRIOR TO DISPOSITION.—Except as*
 15 *provided in subsection (c), if the juvenile”;* and

16 (4) *by adding at the end the following:*

17 “(c) *RELEASE OF CERTAIN JUVENILES.—*

18 “(1) *IN GENERAL.—A juvenile, who is to be tried*
 19 *as an adult under section 5032, shall be released*
 20 *pending trial in accordance with the applicable pro-*
 21 *visions of chapter 207.*

22 “(2) *CONDITIONS.—A release under paragraph*
 23 *(1) shall be conducted in the same manner, and shall*
 24 *be subject to the same terms, conditions, and sanc-*

1 *tions for violation of a release condition, as provided*
 2 *for an adult under chapter 207.*

3 *“(d) PENALTY FOR AN OFFENSE COMMITTED WHILE*
 4 *ON RELEASE.—*

5 *“(1) IN GENERAL.—A juvenile alleged to have*
 6 *committed, while on release under this section, an of-*
 7 *fense that, if committed by an adult, would be a Fed-*
 8 *eral criminal offense, shall be subject to prosecution*
 9 *under section 5032.*

10 *“(2) APPLICABILITY OF CERTAIN PENALTIES.—*
 11 *Section 3147 shall apply to a juvenile who is to be*
 12 *tried as an adult under section 5032 for an offense*
 13 *committed while on release under this section.”.*

14 *(b) DETENTION PRIOR TO DISPOSITION.—Section*
 15 *5035 of title 18, United States Code, is amended—*

16 *(1) by striking “A juvenile” and inserting the*
 17 *following:*

18 *“(a) IN GENERAL.—Except as provided in subsection*
 19 *(b), a juvenile”; and*

20 *(2) by adding at the end the following:*

21 *“(b) DETENTION OF CERTAIN JUVENILES.—A juvenile*
 22 *who is to be tried as an adult under section 5032 shall be*
 23 *subject to detention in accordance with chapter 207.”.*

1 **SEC. 304. SPEEDY TRIAL.**

2 *Section 5036 of title 18, United States Code, is amend-*
 3 *ed to read as follows:*

4 **“§ 5036. Speedy trial**

5 *“(a) IN GENERAL.—If an alleged delinquent, who is*
 6 *to be proceeded against as a juvenile pursuant to section*
 7 *5032 and who is in detention pending trial, is not brought*
 8 *to trial within 70 days from the date upon which such de-*
 9 *tention began, the information shall be dismissed on motion*
 10 *of the alleged delinquent or at the direction of the court.*

11 *“(b) PERIODS OF EXCLUSION.—The periods of exclu-*
 12 *sion under section 3161(h) shall apply to this section.*

13 *“(c) JUDICIAL CONSIDERATIONS.—In determining*
 14 *whether an information should be dismissed with or without*
 15 *prejudice, the court shall consider—*

16 *“(1) the seriousness of the alleged act of juvenile*
 17 *delinquency;*

18 *“(2) the facts and circumstances of the case that*
 19 *led to the dismissal; and*

20 *“(3) the impact of a reprosecution on the admin-*
 21 *istration of justice.”.*

22 **SEC. 305. FEDERAL SENTENCING GUIDELINES.**

23 *(a) APPLICATION OF GUIDELINES TO CERTAIN JUVE-*
 24 *NILE DEFENDANTS.—Section 994(h) of title 28, United*
 25 *States Code, is amended by inserting “, or in which the*

1 *defendant is a juvenile who is tried as an adult,” after “old*
2 *or older”.*

3 **(b) GUIDELINES FOR JUVENILE CASES.**—*Section 994*
4 *of title 28, United States Code, is amended by adding at*
5 *the end the following:*

6 **“(z) GUIDELINES FOR JUVENILE CASES.**—*Not later*
7 *than May 1, 2006, the Commission, pursuant to its rules*
8 *and regulations and consistent with all pertinent provisions*
9 *of any Federal statute, shall promulgate and distribute, to*
10 *all courts of the United States and to the United States*
11 *Probation System, guidelines, as described in this section,*
12 *for use by a sentencing court in determining the sentence*
13 *to be imposed in a criminal case if the defendant committed*
14 *the offense as a juvenile, and is tried as an adult pursuant*
15 *to section 5032 of title 18.”.*

Calendar No. 608

108TH CONGRESS
2D Session

S. 1735

A BILL

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

JULY 6, 2004

Reported with an amendment